

The foundational moment of Guatemala's contemporary State: *The transitional road to democracy and its influence in time*

Abstract

This document develops a revision done to the process of transition towards democracy live in Guatemala around the middle eighties, making a critical and detailed evaluation of the main events and how they influenced on the constitution of a new model of State. The research work allowed finding out intricacies of the process through several direct actors of the transition. After the democratic decade lived from 1944 through 1954, different from other studies, this research work points at the year 1973 as the slow beginning of a journey that would encounter different obstacles and some facts that turned out to be catalysts of the transition. Furthermore, it explains how the military-oligarchic system generated its own entropy and provided a scenario appropriate for changes that ended up in a new system. The role of politics in the process is highlighted and the influence of the christian-democrat way of thinking on the new Constitution, as well as a revision of the new institutional design. The research work also introduces the type of State built in regards to a historical evolution, closing with the implications the coup of 1993 had, the return to constitutional order and the constitutional reforms of that same year that somehow altered the original model.

Key words

1. State. 2. Politics. 3. Guatemala. 4. Government. 5. Political system. 6. Power.
7. Political parties. 8. Democratic process.

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The transition processes towards democracy in Latin America have been passably heterogeneous regarding their characteristics; this seems like an indication that when it comes to this region it must be spoken about democracies because each State and society has differently comprehended its conception and evolution.

This phenomenon has already been addressed by authors like Jaime García Cobarruvias (2007), who propounds that the transition processes have not been simple and have not had the same model in all the countries. García locates different cases on cornerstones. For example, in some cases it was parting (Argentina); in others, it was institutionalized and programmed (Chile). In other countries like Paraguay, democracy was the final result of another coup. Brazil, Uruguay and Bolivia also have their own particular features¹.

It is valid to be reminded about the fact that Latin America lived a democratic billow around the mid-eighties, when Guatemala was not the exception; nevertheless, this country was living through its own features which would later make influence on the type of democratic State that was intended to be built as well as the attainments it would have.

Guatemalan democracy has been built through a difficult process, filled with more hindrances than successes since the initial attempts to become a political regime. There have been a number of enemies who have tried to obstruct its consolidation in either open or undercover ways.

The main objective of this research work is to establish the orientations and configurations that the State of Guatemala has adopted as a result of the transitional process to democracy in 1985, appointed by the author as the *foundational moment of Guatemala's contemporary State*.

For that reason, this research was based on two specific objectives. The first one was to identify the procedures and mechanisms implemented by the different sectors studied as a part of this State's institutional orientation and configuration. The second objective consisted

¹ For this matter, see: García, Javier 2007 "Las transiciones a la democracia en América Latina: ejes fundamentales" ("The transitions towards democracy in Latin America: fundamental axes") at < http://iugm.es/uploads/tx_iugm/TransicionesAL.pdf>, acceso 24 de agosto de 2014.

of the establishment of the main political, economic, cultural and social implications that emerged as a result of the state reconfiguration that took place after this democratization stage.

As a theoretical framework that supports this research, a Political Science focus was used over the new institutionalism. According to authors such as Ignacio Molina (1998), this political focus is oriented to contribute to the structure and operation of public organizations, explicitly recognizing the State as a protagonist during the decision making process, centralizing this study on the State.

The research work generated a need to situate an important number of actors, which comprehends academics, politicians and military soldiers, considered key elements during the democratization process, so that they could provide answers that contributed to the knowledge of the transitional process to democracy through a semi-structured interview. At the same time it was necessary for them to show understanding of the new institutional design of Guatemala, the negotiations, and the hindrances involved during the transition.²

It is important to highlight that even though the formal transition from de facto military commands to a civil president happens for the first time in the country in 1986, this handover would not have been possible without a series of negotiations amongst elites that took place within 1982 and 1985. This negotiation allowed a convening to elect a National Constituent Assembly that was in charge of the highly important duty of developing a new Constitution and a series of constitutional level laws such as: the Electoral and Political Party Law; the Public Order Law; the Law of Expression of Thought; and the Law of Protection, Habeas Corpus and Constitutionality.

This process sustained the State of right's foundational moment, which allowed the participation of different political options guaranteeing respect for the vote and institutionalizing the construction of democracy through the creation of the Supreme Electoral Tribunal (TSE), the Attorney for Human Rights (PDH), the Constitutional Court (CC), the General Nation's Attorney (PGN), the Nation's General Comptroller of Accounts (CGCN) and the exempt exchange of State Powers, setting clear duties for the Executive, Legislative and Judiciary, all of them under civilian control.

Notwithstanding, the construction of a new political system needed a process that also involved a social reconstruction at the same time that the population was living through the most difficult years of the internal armed conflict³ and had left aside the social agenda of a country submersed in a high level of poverty and illiteracy.

² Nine high-level interviews were done and thirteen interview transcripts which in its time the author made for the National Institute of Public Investigation (INAP) were recovered, with several actors who were key elements in the democratization process, some of the interviewees have already passed away, which increases their importance (see annexes). It is important to mention that these interviews have previously been used for academic purposes.

³ The years classified as the roughest during the civil war between Guatemala's army and the guerrilla troops from 1960 to 1996 were the early eighties, specifically 1982 and 1983 during the General Efraín Ríos Montt's

This first contemporary State's foundational moment would be the basis needed so that in 1996 the Peace Accords were signed between the Government and the Guatemalan National Revolutionary Unity (URNG), and it would also explain the reasons for their low level of fulfillment.

In order to try to understand the object of our study it is necessary to point at various stages that had an effect in the transition and as a consequence, molded the State's institutional quality in its formal dimension through their juridical-regulatory framework, and at the same time, influenced and established a new political praxis that has defined the democratic model adopted. For this reason, it is important to revise those moments, the most important characters and their main and most important consequences.

Some facts that preceded democracy

As a consequence of the counterrevolution of 1954 driven by the most powerful landowners in the country, backed up by the United States of America (USA), which overthrew what once was called "The Democratic Spring"⁴, Guatemala lived again through three extremely convulsive decades (1954-1985). Within the political field, there was a long history of successful and failed coups that generated wide instability. This also affected the economic field, because the constant absence of clear rules and norms, and the presence of the social segment that would benefit the most by obtaining the State power had an impact on the national economy and its international connections. As for the social field, there was a high discontent over the situation of poverty and social exclusion, which had its maximum expression in an internal armed conflict, which at that time had already been present for over twenty years and starting in 1982, as a response to the national army's crackdowns, caused the unity of four guerrilla blocks which formed the URNG⁵.

Different authors highlight the fact that there is a certain difficulty to point at a reliable date for the beginning of evidences of a turning back into the road to democracy in the country, which would allow the handover of the power from the army to a civilian through a legitimate election process.

The last experience classified as democratic and that genuinely transformed the State's institutional quality was stated within the 1944-1954 decade with the revolution of October 20, but had been overthrown as a result of the United States' intervention through the Central Intelligence Agency (CIA) and a group of powerful landowners who supported the coup directed by the Lt. Col. Carlos Castillo Armas to create what is named as the

facto government. The name *internal armed conflict* was chosen because due to international implications it couldn't be classified as internal war. See: Geneva agreements of 1949 and 1977 Protocols.

⁴ The Revolution that took place on October 20, 1944 was a civil-military movement that overthrew the General Federico Ponce Vaides, after he substituted the General Jorge Ubico, who held the power from 1931 to 1944, constantly disrespecting the country's constitutional order. Ubico's fall brought the first free election in the country.

⁵ a) the Rebel Armed Forces; b) the Guatemalan Work Party (PGT); c) the Guerrilla Army of the Poor (EGP); and d) the Rebel Organization of the Armed Population (ORPA), which merged into the Guatemalan National Revolutionary Unity (URNG) in 1982.

counterrevolution mentioned at the beginning of this section and which main purpose was to overthrow the government of the Col. Jacobo Arbenz Guzman, who had driven the agricultural reform through the famous Decree 900 ⁶.

With the Counterrevolution the military power was stated in order to guarantee the political and economic interests of two actors that couldn't take direct control of the Army due to a lack of legitimacy. On one side, an internal actor, the most powerful landowners, who were the biggest means of economic activity back in the day –agricultural export economy-; on the other side, an external actor, The United States of America and the economic interests in the region, but overall, the political interests within the Cold War context and the need to possess the region's geopolitical control.

Though in a holistic scenario, all the country's socio-historical facts could be interrelated in order to explain the transition from military power to civilian power, authors like Fernando Villamizar Lamus set 1978 as a reference point for being what for him is "(...) a year during which the government's national and international disrepute encouraged the desire for a change towards democracy" (Villamizar, s.a.:5)

This position coincides with Francisco Villagrán Kramer's, an academic and even Vice-president of the Republic of Guatemala during the years 1978-1980, who when facing all the governmental attrition and suppression decided to quit from Washington DC, leaving the General Romero Lucas García alone in command.

Nevertheless, there is one poorly studied year which importance was highlighted by the interviewees in this research work in terms of a transition towards democracy this year is 1973. According to Alfonso Cabrera Hidalgo, former deputy for the National Constituent Assembly and first president of the Congress during the transition government –amongst other important positions-, he classifies this year as a reference point because "it sets a historical moment that finished with the establishment of a National Constituent Assembly and the establishment of the first democratic government, that is the time when there is a historical discontinuation to distinguish the dynamics that occurred" (interview, February 13, 2014).

The country had been run by military dictators who limited the population's political participation, mostly for civilians, since the Army was going through a messianic effect that gave them the thought that it was necessary to keep all political control; furthermore, the participation of communist political parties was constitutionally restricted⁷. That is why military candidates were postulated before the population with voting centers guarded by military troops. Votes were issued on carton boxes, which kept them away from a follow-up

⁶ This decree wanted to obtain an agricultural reform through an improvement on the distribution of the country's idle land by a State's purchasing system under prices established on the land registry. This process of expropriation was paid, according to the decree, with *the agricultural reform bonuses*.

⁷ Article 27 "The State guarantees the foundation and operation of political parties which norms and principles are democratic. The foundation and operation of political parties or entities that foster the communist ideology or because of its doctrinal tendency attempt against the State's sovereignty or the principles of Guatemala's democratic organization are forbidden" (National Constituent Assembly, 1965)

process due to a lack of certainty in their content. In addition to that, all the electoral control was taken care of by the Ministry of Governance, ascribed by the president.

This military political control needed financial support, this was given by the country's traditional economic elites, who did not manage any political power, but did back up the military's actions with the intention of keeping a status quo, even more during the Cold War environment. One important element must be added in regards to the international context, it was the American backup provided through their embassy in Guatemala, who continuously assured to be aside of these processes, but it implicitly meant that they provided them with support to prevent the communists from obtaining power⁸.

The year of 1973 had a completely different characteristic, which is better stated by the former members of the political party Guatemalan Christian Democracy (DCG), the biggest democratic opposition back in the day.

In spite of all the high levels of control on behalf of the military with the objective of maintaining the power, the intimidation towards the electing population was so strong that there had not been a need to manage any electoral fraud, as a matter of fact, the members of the DCG revealed that the military had a succession scale to be in charge of the country's first magistracy: "The one to be announced as the Minister of Defense two years before a government term ended, would be the next president" (interview with Alfonso Cabrera, February 13, 2014).

Notwithstanding, the military regime that started being rebuilt after the Counterrevolution in 1954 and had reached its maximum point of refinement after a coup under the command of the Col. Enrique Peralta Azurdia on April 1, 1963⁹, encountered serious difficulties in 1973 when the General José Efraín Ríos Montt's candidacy was announced by the Guatemalan Christian Democracy.

The election in 1974: the search for democracy, lacking a civilian candidate for president

The members of the right-wing

For the election in 1974 the most conservative right-wing representatives, members of the National Liberation Movement (MLN), the political basis of the Counterrevolution and the Institutional Democratic Party (PID) that traditionally was the military's electoral link, became conscious about the fact that in order to continue with their projects they needed to demonstrate certain *softening* in at least one of their candidates¹⁰.

⁸ A hemerographic research on the newspapers Prensa Libre and El Gráfico from the beginning of the eighties decade supports this statement.

⁹ Who was the successor of the General Miguel Ydigoras Fuentes and suppressed all types of political communist organization and appeared solo for the election in 1964. It is valid to mention that during his tenure a National Constituent Assembly created an openly anticommunist Constitution in 1965.

¹⁰ The properly constitutionalized Vice-president figure exists since 1966, setting him/her as the second person in charge. Previously there had been figures of a First, Second and/or Third Designate.

For that reason, one of their ideologists, Manuel Sandoval Alarcón, started a rapprochement process with the journalist Clemente Marroquín Rojas, who had been the Vice-president between 1966 and 1970 during the *Third Government of the Revolution*, leaded by Julio César Méndez Montenegro¹¹. The reason to place Marroquín Rojas was that he couldn't be classified as a revolutionary. (Villagrán, 2004: 52, Second Volume).

However, while MLN was a *tough* right-wing party, its members did not come to an agreement in regards to the candidacy. The Council of Ministers itself did not approve this possible candidate, that was why Sandoval Alarcón pronounced not only Marroquín Rojas through a *reserved memorandum*, but also the existence of fighting men on the Board who preferred imposing their ways of thinking rather than negotiating ("The carrying of a well thought plan", in La Hora "Guatemala", July 20, 1973)¹².

The typical action by MLN was therefore to pronounce General Kjell Laugerud García as a presidential candidate, who was then the Minister of Defense, and Manuel Sandoval Alarcón as a Vice-president candidate. They counted with the anticommunist backup, like it had been ever since the previous election by working along with PID.

The Guatemalan Christian Democracy, the organization as a benchmark and the emergence of Ríos Montt's figure

DCG decided to take their own path, considering in an internal document that the only way in which they could make a gap in a political system dominated by a unified Army would be to search for veins of discontent leaderships within the same institution.

In order to achieve it they had a strong organizational capacity, because they had been working all over the country since 1955 obtaining strong international support at a level of cadre conformation, especially through Konrad Adenauer Foundation and the Venezuelan government¹³.

¹¹ As it was mentioned before, the first democratic government took place in 1945 with Doctor Juan José Arévalo Bermejo, the second democratic government with the Col. Jacobo Arbenz Guzmán in 1951 and the known as the third democratic government because of the characteristics that surrounded the election process, for being a civilian candidate who was elected in the middle of military logics, such was the case of Julio César Méndez Montenegro in 1966. In this last case there was a limited intervention of the Guatemalan Army in his political practices when being the president.

¹² This secret memorandum became public due to an action by Marina Marroquín, daughter of Clemente Marroquín Rojas, whose attempt to create a last-minute political party was rejected by the Electoral Tribunal for not fulfilling the legal requirements. Marina Marroquín thought it was a decision made by Manuel Sandoval Alarcón which caused political tensions because of the content of the previously mentioned internal document. The journalist Clemente Marroquín denied having authorized its publishing, which caused a substantial disruption on the stability of the election process.

¹³ According to Alfonso Cabrera (Interview, February 13, 2014), Venezuela's help was provided through Ifedec, a public policies center with a Christian-democratic tendency and also through Luis Herrera Campnís, who was back then the president, holding that position from 1979 to 1984.

In spite of being considered according to political science within the center-right wing spectrum¹⁴, the Guatemalan DCG was always seen as a potential communist threat because of its progressive views and in good proportions, the youth that was one of the main characteristics of some of their main leaders.

This allowed the DCG to convoke a unification of the center to a non-revolutionary left-wing, obtaining the addition of several important political figures of that time such as Manuel Colom Argueta and Alberto Fuentes Mohr, social-democrat tendency leaders¹⁵.

As a matter of fact, Colom Argueta's addition to the DCG Project and the fight with this party's natural candidate, the Bachelor René de León Schlotter, allowed the emergence of a third character that could run for the Presidency of the Republic. This, according to the interviewees conducted the DCG leaders to appealed to Washington DC with the General José Efraín Ríos Montt, who had been the Chief of Major State during the President Arana Osorio's government and who was transferred to Washington DC as a Director of studies for the Interamerican Peace Academy after facing a sensitive lands problem with a community in the mountains of a department in the east side of the country (Jalapa), during which the troops under his command made use of their weapons (Villagrán, 2004: 83, Volume II).

The aftertastes of the Revolution in 1944 also ran to be elected

The Revolutionary Party (PR) was the heir in the system of political parties of that time that were acting within the legal frame. This is how in spite of counting on less support compared to other political options proposed the candidacy of the Col. Ernesto Paiz Novales, who was the Director of the Polytechnic School during the period of the Revolution, from 1944 to 1954. The candidacy for Vice-president would then be for the PR General Secretary, Bachelor Carlos Sagastume Pérez.

The discussion about the electoral result and its impact on the democratic process

This electoral process, amply known, but poorly studied, has several elements that are important to understand the evolution that the Guatemalan State would have as well as its political system, understood as the political parties system and the electoral system. In addition, there would be an emergence of crucial figures within Guatemalan political life that are still valid.

The first element to be highlighted in this election process has to do with the need that the political parties identified, overall the DCG and the PR of naming a military candidate for president, it was obvious that the MLN would do the same in order to consolidate their autarkic message. This had a strong meaning because without generating a break-up point

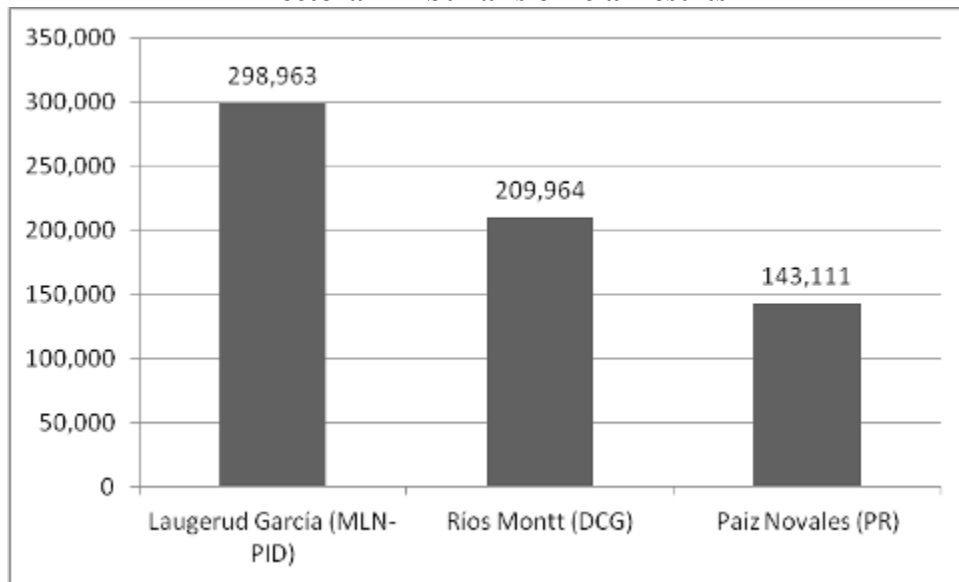
¹⁴ According to Ignacio Molina, the christian democracy is a "socio-political concept inspired on the ideas of Thomas de Aquinas, and its origins date back to continental Europe as a reaction to the appearance of nationalism, and overall, mass socialism" (Molina, 1998:36).

¹⁵ Who back in the day directed a segment of the Revolutionary Party (PR), but had withdrawn from it. Manuel Colom Argueta founded the Revolution United Front (FUR) in 1979.

within the Army no matter how slight it was, it would be mainly impossible to break the system.

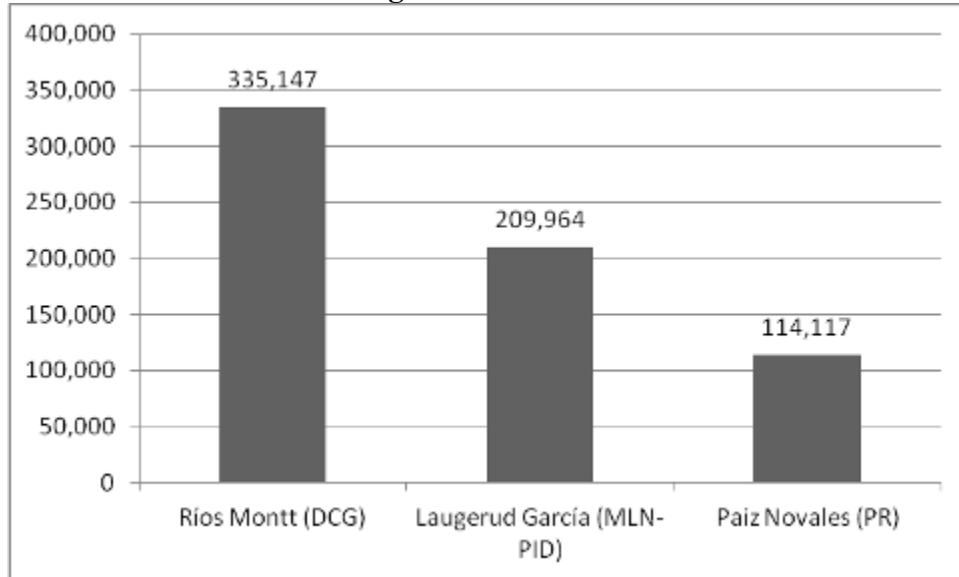
The second element was the discussion on the election results, since immediately after the election on March 7, 1974, the first reports pointed at the General Ríos Montt's irreversible victory; however, the next morning the Electoral Tribunal gave victory to the General Kjell Laugerud García, MLN-PID representative. The results are illustrated on the following graphics:

Graphic #1
Electoral Tribunal's official results



Source: made by the author based on: (Villagrán, 2004: 85, Second Volume).

Graphic #2
Results according to the DCG's election records



Source: made by the author based on: (Villagrán, 2004: 85, Second Volume).

It is valid to highlight that there is a difference of 7,190 votes between one result and the other, which does not seem decisive, it is significant. PR chose to recognize the official data as accurate; this increased the sympathy between the DCG followers and the General Efraín Ríos Montt even more.

The third element is that, as a result of the defeat during the election, classified as a fraud by the DCG followers, several intellectual leaders of this party chose to stop the fight against the then current political system and decided to join the insurgent forces with a Marxist tendency. We can mention Héctor Nuila (who later became the URNG leader), Luis Reyes, *El Chino* and more than 550 leaders nationwide, which meant a heavy blow for the political party (Interview with Alfonso Cabrera, February 13, 2014).

As a fourth element, it has to be mentioned that the General Efraín Ríos Montt never tried to manifest his disagreement and never tried to join the crescent fights against the election fraud. On the contrary, he chose to accept a position with the new government as a military attaché for the Spanish Embassy. This action was seen by all the people who supported him as a big betrayal. The interviews that are a part of this research work has revealed that the General Ríos Montt was enlisted again as a member of the Army so that he could accept the position previously mentioned in an obedient and not belligerent manner, without any further discussion. On the other hand, the closest contributors to the political project that supported him stated that the General Ríos Montt suffers from *political tepidity*, when it comes to make decisions that need uprightness and courage¹⁶

¹⁶ In the evening on Monday, November 8, 1974 one day after the election, there was a private meeting between the then president, General Carlos Arana Osorio and the General José Efraín Ríos Montt, DCG candidate. The dynamics of this meeting are unknown since Joseph Infuso and David Sczepanski narrate the story in their book "*Servant or dictator. The real story of the controversial president of Guatemala*" in a way in which they seem to take the General Ríos Montt's side due to religious sympathy, questioning its objectivity. According to these

The fifth point is that this permitted young leaderships got to emerge to challenge the jaded military structure allowing figures like Alfonso Cabrera Hidalgo, Catalina Soberanis and Marco Vinicio Cerezo Arévalo, who later would become the president during the transitional period.

Democracy understood in its most basic sense

All the people who were involved in the national political field, who marked the construction of that re-foundational moment of the Guatemalan State speak about the importance that democracy had to be instituted as a political system, but what did they really understand as democracy?

Authors like Giovanni Sartori state that democracy is nowadays “an abbreviation that means liberal-democracy” (Sartori, 2002a.:29). The same author states that democracy must be understood in at least three aspects: a) democracy as a legitimacy principle; b) democracy as a political system in charge of solving problems regarding power; and c) democracy as an ideal.

By observing the actions of the Guatemalan political class we can notice that the first meaning intended to be given to democracy was instead the meaning of legitimacy. This means, that according to the old fashioned style, power lies on the *demos*. To synthesize this, it must be said that there must be clear rules to elect authorities and the decisions made by those who are elected respond to the needs and desires of those who they represent, this involves the members of the community that they belong to and that have or have not voted for them.

Guatemalan political history highlighted that this basic legitimacy principle had continuously been absent in political practices. The recurrent coupes, electoral fraud, the explicit limitations to keep parties that differed in terms of status quo from participating, and the Army’s presence concentrating political power demonstrate the need for coercion for the system to keep on working.

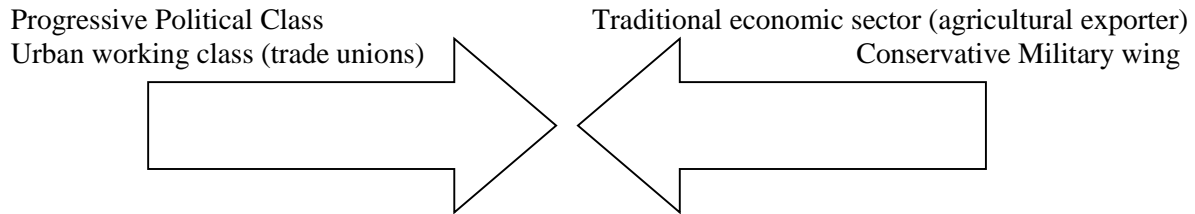
At this point, it becomes evident that there is at least one common interests exchange between two well defined blocks, who had agreed on status quo that was functional for them, among them are the country’s productive agricultural sector, the Army’s most conservative wing and on the other side, a political class that was struggling in regards to the construction of a new State model based on the standards of a *Welfare State*, and an urban working class gathered within the main trade unions in the eighties could also be added.

This model could be established in a very synthetic way as follows:

two authors, the discussion between generals brought them to defend the interests between Arana Osorio and Ríos Montt, for whom he had become the owner of the election (Infuso & Szczepanski, 1984: 72-74

Graphic #3

Political forces interrelation in 1974



Source: made by the author.

This way of thinking encountered in regards to what a State must be, and even a State that claims to be democratic, generated a series of recurrent tensions that would make a strong influence in the country's unstable political life more accentuated during the years 1974-1984.

A considerable amount of distrust emerged that kept on hiding the light that would be the guide towards reestablishing a legitimate election process, besides, the fact that the necessity of re-founding the model of State that there was before so that it would somehow benefit all citizens, even in a non-equitable manner, became recurrent.

It was the most conservative block the one that tired out the system, generating political entropy; however, like in physics terms, the same entropy would be the generator of a new political order.

The system's entropy¹⁷ at its very best

The lack of coordination given to the claims to defend the election that was supposedly won by the general Ríos Montt, the impossibility to demonstrate there had been a fraud and an earthquake that hit the country on February 4, 1976 brought a sense of relief to the frayed system imposed by the military.

The general Kjell Laugerud took office on July 1, 1974. At that time, the figure of a Council of State was used as an advisory organization that would study and present solutions to the different social, economic and political development problems. Its members were not elected, but selected by different sectors and guilds in the country. This neo-corporatist allowed some political movement in regards to public decision making in spite of all the difficulties during the middle seventies started becoming evident due to the prices of energy and hydrocarbons at an international level.

¹⁷ Entropy is a physics concept that refers to a magnitude that allows defining the part of energy that can't be used to work through calculus. It comes from Greek and means evolution or transformation. Even though entropy is commonly considered the disorder of a system, this depends on the system itself, since entropy as a disorder is directly proportional to order. This is how the concepts attempt to be applied to the research done. The apparent disorder is the "creator" of a new order, placing its point of equilibrium on the system.

With all that, Laugerud García completed his presidential term during a situation full of political tension mainly identified by a series of political murders that carried as a consequence the declaration of a *Popular War* on behalf of the Guerrilla Army of the Poor (EGP), one of the four guerrilla fronts in the country.

This EGP's declaration of war was published on December 6, 1977 on a pamphlet-like announcement, specified the following:

Frame #1
EGP's Declaration of Popular War

Guatemalan society's current crisis is defined by two elements: the first one is the resumption of the Popular War as a way of boosting the triumph of the poor, hardworking and exploited population. And the second one is the new dynamics of the counterinsurgency, for example, the way of guaranteeing the maintenance of a system full of exploitation on behalf of the rich oligarchs, imperialism and their most important weapon: The (sic) Reactionary Army. The development of both strategies summarizes the complexity of the confrontation between classes, which is taking place all over the country in a very varied manner and which tendency is to widespread and deepen. This would turn into a real war between classes, which ending will mean the definite triumph of Guatemalan population over their national and international exploitation. The popular war (sic) and the counterinsurgency are the strategies for the social blocks being formed in the middle of numerous contradictions in our country to face each other on a fight to death. The minor, but still important contradictions that constantly come up amongst the different sectors of the working class start being influenced by this confrontation, which will increasingly *define the national political life*, from this moment on until the war is defined by the people's triumph. The popular war (sic) is not an armed confrontation of a heroic and determined vanguard against the reactionary regime's police, political and military forces. *The Popular War is the gradual, violent and organized confrontation of the working masses and peasants; the mid-class society layers, the indigenous and poor ladinos against their exploiters and oppressors: the country's rich oligarchs and the rich foreigner monopolists and their instruments: the government and the army.* It is the people's every time more organized fight against their enemies. Vindictive, economic, social and political; ideological and military fights. Mitines (sic), manifestations, political strikes, insurrections, defense and creation of revolutionary ideas. Only the popular war (sic) can build the power of the poor and destroy the power of the rich forever. Let's defeat the counterinsurgency participating in the popular war. Until Victory (sic) always. EGP, December, 1977. (Own emphasis).

Source: Guerrilla Army of the Poor, December 6, 1977.

The system was frayed, which made the accentuation of repression become the only possible strategy within the military logic, especially before one of the guerrilla groups, EGP, emphasis on fusing Marxism with guerrilla fights at a "guevarista" style. This was materialized with the murder of important businessmen like Luis Canella Gutiérrez on December 13 of that same year and also the kidnapping of Roberto Herrera Ibarguén, another important agriculture businessman who was actually a former Minister of International Relations.

Before this road, the election in 1978 would be decisive, mostly for the military power and the most conservative right wing in the country, concentrated in the political parties MLN and PID. In spite of this, something interesting happened internally among those who made all the political decisions; Laugerud García's government wouldn't make things easy for the official candidate Col. Peralta Azurdia to obtain political power giving continuity to the project by MLN-PID. The logic of this action was framed within the idea that it was too risky to provide legitimacy to EGP as a consequence of a bad political decision and due to the fact that there was a certain amount of intervention on behalf of the Army, having *three military candidates* to run for president¹⁸, the risk of it to appear as an official imposition had to be avoided.

The election was for the Broad Front that propelled the General Fernando Romero Lucas García and Doctor Francisco Villagrán Kramer from PR. With this, and in spite of Villagrán Kramer's actions all the State's repressive actions against insurgence and civilian population that became so strong that the recently elected president decided to quit on December 1, 1980, at the same time that over a hundred State crimes were done and just before the number of deaths credited to Lucas García's government increased in an exponential manner¹⁹. Among the murders, we can mention those committed against important opposition politicians like Alberto Fuentes Mohr (January 25, 1979) and Manuel Colom Argueta (March 22, 1979); adding to this the tragedy of the Spanish Embassy, were 37 people, most of them indigenous were killed in a mysterious fire²⁰.

In Ricardo Gómez Gálvez's words, back then DCG's deputy: "It is important to value how the war experience reflected the democratic process" (interview, February 18, 2014). The discussions within the Legislative were, according to several interviewees, done at a high level, with a strong ideological-partisan definition that allowed the existence of a political project: a) the one of the institutional way through political parties and b) the one of a repressive way, through Military who occupied the Executive Organism's semi-dictatorial logics.

The situation was tense in spite of the existence of political parties like, PR, DCG, MLN and PID, the possibility for a civilian to assume command of Guatemala's State seemed remote; some sectors thought that the only possibility to provide with guarantees to obtain a State of

¹⁸ It must be mentioned that DCG also postulated a military candidate, General Peralta Méndez, nephew of the candidate for MLN-PID

¹⁹ During his government, the Historical Clarification Commission documented more than 200 massacres. His brother Manuel Benedicto Lucas García was the chief of the Army's Major General State, who is claimed responsible for being to brain to keep EGP from winning in the country's highlands.

²⁰ The Spanish Embassy was occupied on January 31, 1980 to demand the government the exhumation of the dead bodies of peasants who had been kidnaped in Uspantán, Quiché. That day was taken advantage of by calling the attention of international press when the former Vice-president and of Guatemala, Eduardo Cáceres Lehnoff, the former Chancellor Adolfo Molina Orantes and the lawyer Mario Aguirre Godoy met with the back then Ambassador Máximo Cajal y López, who were discussing the opening of the Hispanic Culture Institute. Among the dead are: Jaime Ruíz del Árbol, Spanish council; the former Vice-president Cáceres Lehnoff; the former Chancellor Adolfo Molina; and Vicente Menchú one of the main leaders of the movement and father of the later awarded with the Nobel Peace Prize Rigoberta Menchú Tum (Prensa Libre, January 31, 1980). It is important to highlight the existence of videos that show members of the back then National Police (PN) holding flamethrowers.

Law would be the intervention of a military that could be the transitional link so that civilians could acquire political power, and as a consequence, there would be a change on the State's logics and dynamics. The election in 1982 seemed to have that answer.

On March 7, 1982 the presidential election took place closely followed by the United States and Mexico, since both of them were interested in supporting a peacemaking process of the Central American region. It is valid to mention the triumph of the Sandinista Revolution in Nicaragua in 1979, and that El Salvador was living its own internal armed conflict since 1980, which turned the socio-political relations tense and convulsive in Central America.

This was how the influence of a liberal wing emerged directed by Villagrán Kramer who during Lucas García's government permitted the emergence of political parties: National United Front (FUN), Authentic Nationalist Central (CAN), National Renewing Party (PNR); that completed the new political parties: United Revolutionary Front (FUR) – leader Manuel Colom Argueta was murdered- and the Social Democrat Party (PSD) – leader Alberto Fuentes Mohr was murdered as well-, that had their registration pending. The traditional parties PR, MLN, PID and DCG joined them.

In the middle of this new political parties spectrum, URNG was officially consolidated on February 7, 1982 along with its four strongest fronts: a) Rebel Armed Forces (FAR); b) Guatemalan Labor Party (PGT); c) the Guerrilla Army of the Poor (EGP); and d) the Rebel Organization of the People in Arms (ORPA). They claimed that the communist revolution wouldn't pass through the ballot boxes²¹. Its unitary proclaim literally cited among the most important elements:

²¹ As a matter of fact, the US State Department assures that the unification agreement did not start in 1982, but in 1980, and that the only copy was in possession of Fidel Castro (US State Department, 1980: 6).

Frame #2
URNG's unitary proclaim

“The people of Guatemala release today the biggest revolutionary war in history. It is a war in which workmen, peasants, indigenous, ladinos, catholic and evangelical people, men and women, old enough to think and fight and all the patriots and democrats in our country are participating. It is a war that has lasted 20 years already and that has currently expanded throughout the entire country. Hundreds of patriots have offered their lives fighting in guerrilla fronts, the amount reaches to tens of thousands of people who day after day contribute their effort and sacrifice so that the people break forever the old and hard chains of social injustice. It is a war in which the enemy is being defeated, and today more than ever, we're completely sure will be crowned with victory. The people of Guatemala releases the *popular revolutionary war* (sic) because the powerful and rich national as well as foreigners have left us without a choice to free us from repression, exploitation, oppression, discrimination and the dependence on the foreign... the State coup supported by the U.S. government could also be another useless escape that ambitious sectors equally repressive try to find from the current reactionary power crisis... Our people's path towards obtaining their definite national and social emancipation is the Popular Revolutionary war, this is the only truthful path that can be followed by Guatemalans in order to be able to establish a revolutionary government, patriotic, popular and democratic... to build the revolutionary unit of all Guatemalan people, to develop the popular revolutionary war (sic), to overthrow the oppressor, exploiter, discriminative and repressive regime, to gain power and establish a revolutionary, patriotic, popular and democratic government, our people with fierce soul will better be dead than slave. Guatemala, 1982.”

Source: National Guatemalan Revolutionary Unit, January, 1982.

URNG had become stronger within 1980-1982, as a consequence of all the existing discrepancies between the highest and middle commands of the Army. The election in 1982 took place in an enabling environment for any sector that was unhappy with the result and had a representative in the military forces, could put together a coup, and in the end, it happened.

The election results brought the PR-PID-FUN candidate, General Ángel Aníbal Guevara Rodríguez to victory. He was the leader of the Popular Democratic Front (FDP) and had become the only military that was running for president, thus the candidates for MLN, DCG-PNR and CAN, were civilians.

The difference in votes that favored the General Guevara Rodríguez, was 157,241 more than the second competitor, graduate Mario Sandoval Alarcón, from MLN, this number approached an 11 % of the total issued votes. The null votes reached out to 103,997 however, the Electoral Tribunal did not reveal the number of blank votes. General Julio Balconi, who in 1996 would be a peace signatory, was back then well known in the northern department of Petén assures: “I saw who won in the department and it was the DCG, but they announced Guevara as a winner” (interview, February 17, 2014).

Photograph #1
Official results of the election on March 7, 1982



Source: Prensa Libre, Guatemala, March 11, 1982

People continuously spoke of a coup, the manifestations on behalf of the supposedly defeated political parties were clear a unified. Guevara on the other hand, appeared victorious. MLN claimed that a coup was necessary in order to defend their cause. It was not a coincidence that the Chief of Councilors in Security Matters for the presidential candidate of this party was the *General José Efraín Ríos Montt*²².

It must be said that the written media did not pay major attention to the coup raised on March 23, 1982. As an example, on a circulating newspaper of 80 to 90 pages, the coup coverage occupied four pages. As an additional detail, two days before the presidential election, PGT had kidnapped one of the directors for Prensa Libre, Álvaro Contreras Vélez, among all the questions that the insurgents asked the journalist, he said that they had asked him “what he knew about a conspiracy of young militaries to overthrow Lucas’ government... and whether he was a friend of Ríos Montt”²³

²² (“Intimacies from March 23”, on Siglo Veintiuno, Guatemala, February 3, 1991)

²³ (Ríos Montt’s interests redirected the coup”, on Siglo Veintiuno, Guatemala, March 23, 1998).

The tombstone of General Lucas García's regime was the lack of interest in negotiating a way out of it with the political parties that claimed fraud; in addition, he seemed unwilling to listen to his government contributors, especially the military intelligence that –where his brother, Benedicto Lucas García was performing–, about all the conspiracy interests against his regime.

Ríos Montt: The desired political messiah?

The way in which Ríos Montt reached the power was through a triumvirate that starred a coup to take control of the country on March 23, 1982. The General Horacio Egberto Maldonado Schaad, commander of the Guard of Honor Military Brigade and the Col. Francisco Luis Gordillo Martínez, commander of the Army's General Barracks completed the roster.

According to the General Ríos Montt's version given to the written media, “he was explaining bible passages to a group of proselytes when a group of soldiers broke into the temple where he taught to inform him that the president Lucas García had just been overthrown in a military coup and its leaders wanted him to become the president of the Government Military Board”²⁴.

²⁴ Barcelona Center For International Affairs “Efraín Ríos Montt” on <http://www.cidob.org/es/documentacio/biografias_lideres_politicos/america_central_y_caribe/guatemala/efrain_rios_montt>, accessed on March 25, 2014.

Photograph #2
Headline of the coup on March 23, 1982



Source: Prensa Libre, Guatemala, March 24, 1982

Several christian-democrat leaders of that time say that they were skeptical when they heard the news that their former leader would now lead a *temporary* government. In fact, Ríos Montt assured that none of the members of the triumvirate had any political interests. Turns out as reality stroke on June 9 of that same year, the other two members were forced to quit leaving all the power in Ríos Montt's hands.

The National Army's forces needed to be rebuilt; a part of it was to reconstruct the military strategy to not be defeated in war, because the State would suffer noticeable changes in its conception. The route was to accentuate repression even more, no matter who crossed their way. That is why, Ríos Montt from the beginning made an announcement when he assumed the position: "Those who have arms against the institution of arms must be executed, executed not murdered, understood?" (Prensa Libre, Guatemala, March 24, 1982).

The plan for National Security and Development, created in April that year, would be a political-military accolade, because it was the State militarization. The Major Special State

was created and the war in Guatemala was accentuated with Victoria 82 Plan²⁵ and Sofía Plan²⁶, recently downgraded, product of this organization.

Some of the programs that stood out were *Rifles and Beans* through which peasant people received food and construction or reconstruction of houses in exchange for not collaborating with the guerrilla, but collaborating with the Army, and to do that, they also received weapons. The other program was the *Model Villages*, which provided with shelter, work and tortillas to relocated communities that had been displaced by the internal armed conflict²⁷.

Furthermore, the logic of action of the Civilian Self-defense Patrols (PAC), created during Lucar García's government and legalized by Government Agreement 222-83 was increased.

Another characteristic that the 17 months that Ríos Montt's government lasted was the creation of the Law of Courts of Special Jurisdiction, which established death sentence through execution, in outrageously summarized processes for the crimes of: "kidnapping or abduction; aggravated arson; deactivation of defense; fabrication or possession of explosives; rail disaster; attempting against means of transportation; attempting against the security of public services; piracy; air piracy; poisoning of water or food or medicine; betrayal; attempting against the State's independence of integrity; forced betrayal; genocide; terrorism; deposits of weapons or ammunitions, and explosives traffic" (Law Decree 46-82, Article 3).

That is how the creation of a repressive and counterinsurgent State was accentuated, militarizing without any kind of weights and counterweights balance; but with an omniscient power from the head of State. That is why an answer was given to insurgents through the *Fundamental Points of Government*:

²⁵ Victoria 82 plan was published on June 25, 1982 to create a legal framework that would justify an open fight against communism. (Shetemul, Aroldo. "Victoria 82". Prensa Libre, on < http://www.prensalibre.com/opinion/Victoria_0_503949785.html>, Access on April 2, 2014. This plan is known as the policy of *taking the water away from the fish*, it implied the systematic murder of villages or communities that could be could provide support or could join the guerrilla movement.

²⁶ Sofía Plan was a document used by the military which objective was "to terminate all subversive elements. In order to do this, the first battalion of the Parachuting Troops in the Military Base General Felipe Cruz, had to develop offensive and anti-subversive and psychological operations that lasted 20 days, in Gumarcáj Task Forces operations area, and in combination with that military unit, trying to respect as much as possible the life of women and kids..." (Guatemala Government, 2010:15).

²⁷ Also known as *Food for Work and Development Poles*.

Frame #3

Fundamental Points of Government

“Making people feel like the authority is to serve the people and not the people to serve the authority; obtaining reconciliation of Guatemalans and in benefit of peace and national accord; obtaining individual safety and tranquility based on (sic) absolute human rights respect; recovering individual and national dignity; obtaining the establishment of a patriotic spirit and create the base for participation and integration of the different ethnical groups that make up our nationality; recovering the nation’s economy within the free enterprise system, according to the national current parameters; rebuilding our Judicial Organism with the participation of Law Associations (sic) to adapt them to the prevailing situation and achieving its ethic, moral and legal purposes; eradicate administrative corruption and inculcate among State employees a genuine spirit of public service that forms the basis of a national government; stimulating the different pressure groups that represent national activity, a new developmental, reformist and nationalist way of thinking. Strengthening national integration, taking good advantage of international cooperation, at the same time, letting people from other countries know about our internal conflicts. Improving people’s living standards to decrease the existing contradictions. Restructuring the election system so that, as a result of *true democracy*, political participation will be respected and people’s frustration is avoided. Reorganizing our public administration with the objective of streamlining the implementation of governmental programs, obtain their efficiency, control their operation and avoid administrative anarchy; and, reestablish the Constitutionality (sic) of the country within a firm deadline so that Guatemalans know and demand their responsibilities and obligations within the free democratic dynamic.” (Self emphasis).

Source: Government of Guatemala, 1982.

However, what the country found was not, as we can see, a return towards institutionalism to latter on make a way to a democratic life. What the country really encountered was an evangelical fundamentalist leader that was characterized by the moralizing speeches to the people on each Sunday through national channels at the same time that the hand of a cruel and bloody war was developing.

Virginia Garrard-Burnet, from the Latin American Studies Institute in the University of Texas, citing Jorge Serrano Elías, head of Ríos Montt’s Council of State, and who later on would become an elected president in 1991, breaking Guatemalan institutional order with a self-coup in 1993 said: “Ríos Montt has (alongside) two theories in mind. First, he is a soldier. Second, he is a moral warrior. ...It is only in these two separate perspectives that one can be able to understand his government”. The author completes her ideas by mentioning that “in the General’s way of thinking, however, these two reasons are clearly combined: The New Guatemala (sic) required a way back to security and the defeat of the guerrilla, but at the same time, the government, that had been linked to repression and corruption for a long time, had to reestablish its own legitimacy. At a superficial level, Ríos Montt expected to improve the government’s public image. But also *he was basically looking forward to redefine the*

nature of Guatemalan state (sic), being based on an essential principles trinity: morality, order and discipline, and national unity”²⁸ (Self emphasis).

In spite of the existence of a Council of State, created to advise the facto government since August, 1982, the negotiations to allow an institutionalism that would allow a call for election and a new Political Constitution, an accentuated autocrat with messianic nuances was increasingly perceived, who wanted the configuration of a State to serve his evangelical-military logic²⁹. It must be highlighted that Guatemala was at that moment mostly catholic, which generated a natural aversion towards the fake moralistic discourse.

This leaded Ríos Montt to a situation of tension during a time of extremely limited government management. Gonzalo Asturias Montenegro assures that:

“there were to forces within the Army on the war scenario: one centrifugal and one *centripetal*. The first one based on the inertia of fear and of bending the guerrilla using bullets and canyons; the second one based on a self-bending over to find new ethic ideas and practices, a new billow of strength based on the belief there was a need to give the war a new ethic turn. Ríos Montt used to say that for each person that the soldiers killed, five new enemies would emerge. The route was different. Yes, the road was the opposite one! But, really, both criteria coexisted within military trenches” (Self emphasis)³⁰.

This would be the step to start managing the necessity of an urgent change that would actually allow to build democracy in the country, which leaded again, at an own judgment, at a coup by the centripetal wing that Asturias Montenegro mentions above.

Mejía Vítores and the search for a transition in the *Spanish way*³¹

The fact of seeing as almost impossible a call for an election that would allow the establishment of a Constituent for the making of a new Constitution carried with it a strong discontent among different sectors that saw the Army was digging its own grave by

²⁸ Garrard-Burnett, Virginia (s.a.) “Los describía de domingo de Efraín Ríos Montt” Latin American Studies Institute in the University of Texas on <<http://www.hcentroamerica.fcs.ucr.ac.cr/Contenidos/hca/cong/mesas/cong5/docs/bCul2.pdf>>, Access on April 2, 2014.

²⁹ It is necessary to be reminded of the snub committed against the Pope, John Paul II, during one of his visits to Guatemala on March 6, 1983 when due to a request from the Apostolic Nuncio of Guatemala, he asked in the name of the Vatican and as a good will gesture, for the death penalty that a Tribunal of Special Jurisdiction had dictated one day before to several soldiers accused of several crimes not to be executed.

³⁰ Asturias Montenegro, Gonzalo “Ríos Montt: history or derision” El Periódico, February 9, 2012 on <<http://www.elperiodico.com.gt/es/20120209/opinion/207730>>, access on April 2, 2014.

³¹ Alfonso Cabrera Hidalgo, former Constituent for the DCG in 1985, President of the Congress during the first contemporary democratic stage 1986, minister of Specific Issues in 1987, Minister of International Relations, 1988-1989 and presidential candidate in 1990, made that interesting mention that will be discussed later on this document.

governing, because if they wanted a convincing military response, they shouldn't erode themselves governing; but to concentrate their forces in a military victory³².

The Col. Jorge Ortega, spokesman of the army of Guatemala from 2004 to 2009 assures that: "to govern is not a military activity, the war is something serious and it happened to *guarantee the health of the State*" (interview, February 21, 2014).

This way of thinking of a centripetal force of soldiers in the Army of Guatemala, added to the international context that demanded a return to liberal democracy, mainly in Latin America under the influence of the Cold War, prompted the Minister of Defense himself, the General Oscar Humberto Mejía Vítores, to lead a coup against Ríos Montt on August 8, 1983³³.

Mejía Vítores wanted to enforce the fulfillment of the *Historical Commitment*, signed by the political parties of the time on July 1, 1982, where they would defend set up the election system, but Efraín Ríos Montt's unwillingness to leave the political power kept it from happening.

An important point in this transition was that he was sworn at 3:12 p.m. by the President of the Supreme Justice Court as a Chief of State and not as the President³⁴, this meant that he would keep his position as a Minister of Defense and transmitted peacefulness to the international community and the political parties that were looking forward to a return to institutional order.

This was how Mejía Vítores adopted the compromise of reestablishing the country's constitutionalism and convoking for urgent national election to generate legitimacy in both scenarios: a) the political scenario through a new Constitution and free election; and b) the military scenario, by concentrating efforts in winning the war on the battle field.

³² The Law Decree 30-83 created the Supreme Electoral Tribunal with a permanent nature, with autonomous functions, with jurisdiction all over the country and not subordinated to any other authority or State organization.

³³ There had already been a military outbreak on June 28, 1983.

³⁴ "General Mejía as a Chief of State" on *El Gráfico* (Guatemala), August 9, 1983.

Photograph #3
Headline of Mejía Víctores' coup on August 8, 1983



Source: El Gráfico, August 9, Guatemala, 1983

In fact, one of the most important things that made this coup happen, along with the Spanish transition was the religious component. Even with different characteristics and a lower number of catholic people than in Spain, the evangelist discourse and the fact that there were several *evangelical people* governing, just like Jorge Antonio Serrano Elías, Chief of the State Council; plus the group of advisors, integrated by the elderly people of the church Verbo (protestant), generated a strong social ill will, that added to the political military logic allowed the perfect hotbed for the takeover.

The document that synthesized the change in the government, signed by 31 military leaders quoted:

Frame #4

Proclamation of the High Command and the Military Commanders Council

Substantiating that a fanatic and aggressive religious group, taking advantage of the empowered positions of some of its highest members has used and abused government means for their own benefit, ignoring the fundamental principle of a separation between the State and Church. That we are conscious especially that it is necessary to maintain and strengthen the unity of the Army keeping the principle of hierarchy and subordination to suffocate the attempts of some elements that have tried to section and confuse the Armed Institution (sic). That in favor of National Unity (sic), it has been unanimously decided to remove the President and General Commander of the Army, mister Brigade General José Efraín Ríos Montt from his position and in his place, name the current Minister of National Defense, mister Brigade General Oscar Humberto Mejía Víctores, who will simultaneously comply with the duties of a Chief of State and Minister of National Defense. We assure our compromise and willingness to continue the process to *democratic Constitutionality*, for which we have the support and participation of all political, social and economic sectors of the country, based on which this Military Council will support new formulas that indict the people of Guatemala through democratic and essentially patriotic paths that lead towards their well-being in all senses, allowing all human values, without political parties distinctions, so that the can participate in an integral reform movement. We ratify our compromise with Guatemala to fight in all possible ways to eradicate the Marxist-Leninist subversion that threatens our freedom and our sovereignty” (Self emphasis).

Source: (Villagrán, 2004: 276-7).

Several points can be observed in this document. The first one, the repeated social discontent towards a theocratic State; second, a commitment to a return to institutionalism and the construction of constitutional democracy; and finally, the fact that the State’s armed defense on behalf of the national Army wouldn’t be left aside.

The designation of Fernando Andrade Díaz Durán as a minister of International Relations was one of the highlights of the new governmental administration, whose performance would be a key element in the national and international scenarios in order to guarantee a return to a State of constitutional right.

A new retirement plan for the military was created, which allow an Army modernization process, but the Firm Campaign 83 plan was established, it consisted of a series of guidelines intended to continue working on Victoria 82 plan, where, among the military strategy the following general objectives were highlighted:

“1. To integrate the entire population isolating it physically and psychologically from all the band of subversive delinquent bands. 2. To organize the capable population into Civil Self-defense patrols (sic) to guarantee their safety and promote their appropriate development. 3. To consolidate the population. 4. To reorganize jurisdictional Commands (sic) to perform a better territorial and demographic control. 5. To obtain in an affective sense, the Units (sic) retraining in their sites to maintain the high combat quality. 6. To provoke a common effort among the State’s institutions, private and

religious (sic) to achieve all common interests, keeping them from destruction and obtain peaceful people's coexistence" (Army of Guatemala, 1983).

The above meant that even though during the General Mejía Vítores' government there were serious and noticeable advances in regards to guaranteeing the construction of the basis of democratic institutionalism in the country, it also meant a continuation of repressive actions that carried his accusation in 2011 for genocide on behalf of the Public Ministry of Guatemala, he was accused of having organized at 71 massacres within the ixil area (west side of the country)³⁵.

The opening for a National Constituent Assembly

Conscious of the need for a transition on behalf of the military wing that accompanied the General Mejía Vítores and with the knowledge of political parties that had attended the Contadora Process in July, 1983³⁶, the opening of a National Constituent Assembly was considered wise, because in the middle of a sill counterinsurgent logic, would develop a new Constitution.

This way, Mejía Vítores' government convoked in January, 1984 a national election to integrate the National Constituent Assembly with 88 members. It is valid to mention that through the Law Decree 30-83 the Supreme Electoral Tribunal had been created and it would be the one in charge of directing the process. The way in which non-subordination from entity to individual or State organization were to be guaranteed would be through a Nominating Committee integrated by university students and professional associations' representatives, selecting 20 candidates chosen from a list of all qualified practicing lawyers that fulfilled all the legal requirements. From this same list five main magistrates would be chosen as well as five alternates, with the vote of two thirds of the Supreme Justice Court members. The elected magistrates will occupy their position for five years, and would be renewed by halves every 30 months without the possibility of reelection. The election system was developed by the engineer Amílcar Burgos, who put into practice his knowledge of municipalities to obtain as much representativeness as possible.

This electoral design included the election of two types of deputies for a unicameral system: the deputies by national list and the deputies by district list. The deputies for national list are elected throughout the entire country and are in charge of the management of the prospect at an internal level in the Congress. On the other hand, the deputies by district list are responsible of generating interaction between legislators and their corresponding department³⁷ (Dabroy, 2012). In total, 65 deputies were elected by district list and 23 by national list.

³⁵ Ramos, Jerson, December 28, 2011 "Public Ministry will decline the accusation against Mejía Vítores", on <<http://www.elperiodico.com.gt/es/20111228/pais/205684/>>, access on April 2, 2014. It must be mentioned that Mejía Vítores was found mentally unable to face a criminal procedure against him.

³⁶ The Contadora Process was the most important step to open up the peacemaking process in Central America.

³⁷ District.

The law that ruled the lists of people capable of electing was the Voting Citizens Registration Law, Law-Decree 138-83, Assigning the Citizens Registration within TSE, with the obligation of registering citizens (18 years old ahead, in full possession of their mental and political capabilities), to form the corresponding censuses.

On the other hand, in regards to political parties that were to participate in the process, the electoral memories of 1984 cite the following:

“According to the molds of *representative democracy*, the citizens’ registration must be done jointly with the formation and registration of political parties that are the entities called to posit for positions of people’s election. The Electoral Tribunal had to discard any other alternatives to the party regime, after being convinced that they are not viable within the current democratic systems in América and that they would only lead to a series of conflictive and inconvenient situations into a process of constitutional opening. For that reason, the *Political Organizations Law* contained in the Law-Decree 32-83 was not the object of any substantial modification initiative, either on behalf of the political parties in formation or this Tribunal. However, when being seen that it was impossible for the political parties in formation to complete their registration paperwork and procedures and be ready to participate in the election of constituent deputies, a disposition was included in the Specific Electoral Law posited by this Tribunal (sic) to the Chief of State, that allowed provisional registration to political parties in formation that had fulfilled the minimum requirements, such as presenting adherence papers, containing at least 4,000 affiliates. This was how the registration in a provisional way of seventeen political parties was possible, plus three electoral civic committees, that participated registering a total of 1,174 candidates for the eighty eight seats in the Assembly” (TSE, 1984:29; author’s emphasis).

The election took place on July 1 of that same year with the following results:

Table #1 National Constituent Assembly Election, 1984

Party	District deputies			Deputies for national list			Total seats
	Votes	%	Seats	Votes	%	Seats	
National Liberation Movement (MLN)							
Authentic National Central (CAN)	260,466	16.77	18	249,712	16.26	5	23
National Center's Union (UCN)	278,740	17.95	16	273,744	17.83	5	21
Guatemalan Christian Democracy (DCG)	261,207	16.78	14	326,064	21.24	6	20
Reolutionary Party (PR)	179,199	11.54	8	146,092	9.51	2	10
National Renewing Party (PNR)	126,021	8.11	3	133,860	8.71	2	5
Institutional Democratic Party (PID)	109,905	7.08	3	106,188	6.92	2	5
Anti-communist Unification Party (PUA)	53,385	3.44	0	61,166	3.98	1	1
Revolution's United Front (FUR)	45,490	2.93	0	45,677	2.97	0	0
Concord Emerging Movement (MEC)	43,753	2.82	0	42,764	2.78	0	0
National Unity Front (FUN)	47,366	3.05	1	40,488	2.64	0	1
Democratic Action (AD)	36,747	2.37	0	28,347	1.85	0	0
Civic Democratic Front (FCD)	27,928	1.8	0	28,040	1.83	0	0
National Cooperation Democratic Party (PDCN)	18,544	1.19	0	25,238	1.64	0	0
Populist Party (PP)	14,686	0.95	0	14,354	0.93	0	0
Popular Democratic Force (FDP) and Democratic National Coordinator (CND)	13,376	0.86	0	14,050	0.91	0	0
DCG-PNR Coalition	14,762	0.95	1	-	-	-	1
Social Action Rural Organization	12,222	0.79	1	-	-	-	1
National Progressive Alliance	6,766	0.44	0	-	-	-	0
Zacapa United Committee	2,731	0.18	0	-	-	-	0
Nule and blank votes	439,120	-	-	459,379	-	-	-
Total	1,992,394	100	65	1,994,933	100	23	88

Source: Wikipedia "National Constituent Assembly Election in 1984" on <

http://es.wikipedia.org/wiki/Elecciones_de_la_Asamblea_Nacional_Constituyente_de_Guatemala_de_1984>, access on April 4, 2014. These data were corrected by being compared with "1984 Election, Electoral Memory" from Supreme Electoral Tribunal.

Photograph #4
Newspaper headline one day after the election for the Constituent



Source: Prensa Libre, Guatemala, July 2, 1984.

The picture above illustrates the massive mobilization that people did in order to vote. This election has been the democratic election with the highest participation in the country's political history with a percentage of 78.1 % citizens, which makes completely meaningful the desire for democracy that Guatemalans demanded in the States re-entrainment, giving legitimacy to the new Constitution.

The Constitution established on democracy foundations

A high-level political negotiation started as a product of the Constituent elected, with a high level of commitment demonstrated by the parts, including the Army itself.

In an interview granted by the former Chief of State, General Oscar Humberto Mejía Víctores, some years before being declared mentally disabled, and who was in command while this process took place assured: “we were conscious about the necessity of giving the command to civilians; the Army had already suffered a high level of attrition” (interview, June, 2008).

Endorsing this posture and being more diplomatic the former vicepresident Francisco Villagrán states: “for the Army, it was not only a matter of returning into a constitutional regime, but also an institutional reencounter with Guatemalan people” (Villagrán, 2004:289).

If the political parties that participated in the election for the National Constituent Assembly are revised, the absence of PSD can be noticed; this meant a big limitation for the presence of a social-democrat way of thinking within the new Constitution. This party, as well as the radical left-wing did not think it was the most appropriate moment to participate in an election, fearing that they could once again be manipulated by the most conservative military and that a Constitution that would only benefit the traditional anarchy could be developed.

It is very interesting to see the public manifestation that PSD did on July 12, 1984, because they recognized that not having participated was a mistake, due to the fact that Guatemalans expressed their desire to build a plural democratic system for the country with their high participation through their vote, in spite of this, URNG rejected the results saying that it was an Army’s dictatorial election project, even describing it as a *constitutionalization of the military dictatorship* (Polémica Magazine No. 84-90, on Villagrán 2004).

According to Villagrán Kramer, URNG manifested in an internal document that “the Army tries, by all possible means, to construct a political screen that allows them, in some way, to limit the irreversible political attrition that accompanied all their repressive activity within the counterinsurgency frame, as well as their search for their way out of the international isolation they are living” (Villagrán, 2004:295).

This affirmation has certain logic, thus later on it was possible, through the interviews done for this research work among the christian-democrats, that the actual international isolation had led into finding several more State’s empty coffers that due to a limited international economic activity of the country, more than corruption acts.

On the other hand, the military logic seemed to have sought the defeat of URNG on the electoral way, thus winning the military war with genocide acts, adding that to the imposition of the taking of the power through the electoral way, gave legitimacy to the Popular Revolutionary War.

DCG and its decisive role

DCG got the third place in the election for deputies for the Constituent by obtaining 20 out of the 88 seats, ranking a 23 % of the seats, after the right-wing conservative parties MLN-CAN (23) and the new party, National Center’s Union (UCN) that appeared to be one of the

parties defined by Otto Kirchheimer's category (1980) like a *catch all party*, with 21 deputies.

This made it appear like the construction of a new Constitution would have a very conservative tendency. However, DCG got to be the political party that knew how to better play their cards within the Parliamentary Chamber. The christian-democrats got to agglutinate the progressive political way of thinking not only within the Congress, but also representing the interest of the left-wing, that went from social-democracy, until the most orthodox left-wing.

This happened in spite of the fact that the USA and the most conservative sectors, which had not had major disturbance before the coups, saw the DCG members' political actions with distrust, at a point that it was feared that they had communist interests (interview, Alfonso Cabrera, February 13, 2014).

According to Alfonso Cabrera, who was back then an elected deputy to the National Constituent Assembly, since before the coup in 1982 a diplomatic offensive policy had been started abroad; this was where they found the firm support of Venezuelan government³⁸.

It was the beginning of the *Spanish style* transition, that is why it was necessary to change from a dictatorial system to a democratic system that allowed through a fundamental law, in this case a new Constitution, to generate not only the democratic opening for the government trespass, but also the construction of a new political constitutionalism that would make it a longstanding process. The Constitution would be, when being amply developed, the beginning of a sort of *Moncloa Pact* that would include a paragraph of fundamental human right and a specific definition of the functions of the State's institutionalism, highlighting people's rights.

But the discussions wouldn't be easy, according to Vinicio Cerezo, political leader of DCG and who had not participated on the Constituent because of his interest in running for president, remembers that one of the most difficult points to discuss with the rest of the parliamentarians was the one in regards to the social function of property, something that could not be approved (interview, Vinicio Cerezo, February 23, 2014).

³⁸ Alfonso Cabrera states that the support from Venezuela towards the DCG's political project was systematic, from the formation of cadres (just like the Konrad Adenauer), to plane tickets and guards in the Venezuelan Embassy in Guatemala. Even, at a moment they provided to armored vehicles, so that their main leaders could travel in the middle of the situation of tension that took place in the country at the beginning of the eighties decade. Two specific events happened against who would be the presidential candidate and future governor of the transition Vinicio Cerezo Arévalo, one of them registered on February 14, 1981, by the 9th Avenue and 12th street of zone 1 of Guatemala City, where he received a 12-minute bullets fray, including a nearby car that exploded after being hit by a fragmentation grenade (interview, Vinicio Cerezo, February 23, 2014).

In spite of that, those who had participation within the Constituent recognize that the discussions took place full of respect and at a high level, and that, in words of Marco Vinicio Cerezo Arévalo, who would later become the president of the democratic transition “the Constitution was a product of a real consensus among the different groups in the country (...) the only power that couldn’t judge was the US Embassy” (interview, February 23, 2014). According to Cerezo Arévalo, the United States was attentive to the process, mainly because of their interest in the model that the State of Guatemala was acquiring in the middle of an internal armed conflict and the cold war that they were living with the Soviets”.

The DCG’s ideas and their *Prolonged Resistance for Democracy*³⁹ that they put into practice from 1978 to 1982 allowed them to have a legitimacy margin that was bigger than the rest of the political parties. It must not be forgotten that DCG functioned as a political party since 1955, which is why they were not improvised, so they had figures such as René de León Schlotter, a committed political leader who had already represented the party in prior legislatures.

DCG inspired all the other constituents for the creation of the new Constitution through what was called the *Blue Book*, which was a political christian-democrat project for the State of Guatemala.

This was how the negotiation allowed the inclusion of a series of agreements and the search for consensuses that generated political equilibrium. One of these agreements was the monthly presidency so that all political parties could occupy it and the power would not be concentrated in only one group. At the end, Alfonso Cabrera Hidalgo recognizes that this “produced fluency in the discussion and made it much less rigid” (interview, February 17, 2014).

There was only one point that could not be negotiated by the constituents and it was the chapter that referred to the Army of Guatemala and its functions. General Mejía Vítores himself, Chief of state and minister of Defense back then, stated in the interview he granted that “the paragraph related to the Army was ours, that could not be negotiated” (interview, June, 2008). As a matter of fact, a mention of the lawyer and Col. Manuel de Jesús Girón Tanches is made, he was his General Secretary of Government and he was the one who personally delivered this document to the Constituent presidency.

However, the political class could get the military to be requested to keep a five-year retirement or decommissioned to postulate for the charges of president or vice-president of the country (article 186 e); in addition to this, no active military had the right to issue their vote (article 248), or could be deputy candidates (article 164 f). The military on the other hand, presented an amnesty request.

³⁹ In spite of having thought that they had lost the election in 1974 through a fraud, DCG continued believing that electoral institutionalism was the only right way to obtain the State power and generate the democratic opening of the country. Even though several leaders manifested that they were armed in that moment for the defense of their members, they never saw violence as an alteration mechanism for the military regimes that existed in the country.

In his words, Ricardo Sáenz de Tejada says “the Constitution had an interesting institutional design, very christian and social” (interview, February 20, 2014). Several points were casted in this Constitution, promulgated on May 31, 1985 and that would come into force on January 14, 1986, composed by 280 articles and 27 transitory and final dispositions, among which is highlighted in its dogmatic part, articles 1 through 139:

- a) A State guarantor of the common well-being.
- b) A series of human rights summarized as individual rights.
- c) The right to life.
- d) Freedom and equality.
- e) Freedom of action.
- f) Due process.
- g) Death penalty limitations.
- h) Home and correspondence inviolability.
- i) Freedom of movement.
- j) Right of petition.
- k) Free access to Tribunals and State dependencies.
- l) Administrative acts publicity.
- m) Right of reunion and manifestation.
- n) Right of expression of thought.
- o) Freedom of religion.
- p) Private property as a person's right, as well as guarantees for expropriation (negotiated by the business sector).
- q) Social rights.
- r) Cultural rights.
- s) Recognition of indigenous communities.
- t) Right to education.
- u) University autonomy.
- v) Right to sports, health, safety and social assistance.
- w) Guarantees to the right to work.
- x) Social justice as an economic regime on which republic is founded.
- y) Civil and political rights.
- z) Law of public order and States of Exception.

Its organic part, corresponding to the articles 140 through 262 would establish among others, the following elements:

- a) The State and its way of government.
- b) Nationality and citizenship.
- c) The State's international relations.
- d) The exercise of public power.

- e) The dispositions with respect towards the Legislative Organism.
- f) The Congress' attributions.
- g) Formation and sanction of the law.
- h) The dispositions with respect towards the Executive Organism.
- i) The requirements and prohibitions in order to opt for the position of President or Vice-president (highlighting that no leader or chief of coup, armed revolution or similar movement that have previously altered the constitutional order, nor those who as a consequence of that takes the position of a Government Chief; even having this limitation for the relatives within the fourth grade of consanguinity and second of affinity).
- j) The prohibition for reelection.
- k) The dispositions for the Vice-president.
- l) The dispositions for the State's ministers.
- m) The dispositions for the Judicial Organism.
- n) The Supreme Court of Justice.
- o) The Court of Appeals and other tribunals (military tribunals, court of auditors and the contentious-administrative tribunal are highlighted).
- p) The State's structure and organization.
- q) The political electoral regime.
- r) The administrative regime.
- s) The Urban and Rural Development Councils System.
- t) The department governors.
- u) The general regime of property.
- v) Control and auditing regime.
- w) The General Accounts Comptroller.
- x) The financial regime.
- y) The general budget of the State's income and expenses.
- z) The Organic Budget Law
- aa) Dispositions in regards to the Army.
- bb) The Nation's General Procurator and the Chief of the Public Ministry
- cc) Township regime and autonomy (where the constitutional contribution to municipal coffers is highlighted).

In addition to this, there are a series of articles oriented to provide the Constitution and the defense of constitutional; this is noted in its articles 263 through 280, where the following are highlighted:

- a) The right to personal exhibition (habeas corpus).
- b) The precedence of the right to protection.
- c) The right to pronounce the institutionalism of a law.
- d) Specific dispositions about the Court of Constitutionality.
- e) The Human Rights Committee within the Congress.
- f) The Human Rights Procurator.
- g) The dispositions for amendment to the Constitution (everything related to human rights corresponding to Chapter I, Title II can only be amended by the National Constituent Assembly, while the rest through two thirds of the Congress and, after being ratified through a popular consultation).

The achievement of counting on entities of political control and the grant of guarantees like the Court of Constitutionality and the Human Rights Procurator and a renewed Supreme Electoral Tribunal, plus the auditing labor of the Nation's General Accounts Comptroller granted a panorama of certainty that completed the National Constituent Assembly with the following laws of constitutional rank:

- a) The Electoral and Political Party Law (Decree 1-85)
- b) The Law of Protection, Habeas Corpus and Constitutionality (Decree 1-86)
- c) The Public Order Law (Decree 7-86)
- d) The Law of Expression of Thought (Decree 9-86)

Other issues were left still very bare, like Raquel Zelaya, who was a women's representative in the General Ríos Montt's State Council assures, "the ethnic issue was treated at a very superficial level, two or three articles about indigenous communities" (interview, February 17, 2014).

Nevertheless, Zelaya recognizes how the Constitution of 1985 also surpassed the disposition of 1966 in regards to the functions of a Vice-president, who was just an eminently decorative figure, to having specific functions where the coordination of the State's ministers is highlighted, this overall because "*all of the candidates to vice-president were constituents*" (interview, February 17, 2014; self-emphasis).

The election for the transition government

According to the 5th transitory article of the new Political Constitution, on November 3, 1985, it would be proceeded to carry out national election for the position of president and vice-president, deputies for the Congress (national and district) and municipality corporations.

However, the major problem came up more than for the electoral dynamic, for the discussion of when was the most appropriate moment for the new Constitution to come into force, because having being approved on May 31, 1985 and having a call for election on the next January 14, there was no certainty of when it should have been implemented. At the end, the transitory dispositions in the Constitution established, after a process of political negotiation, which happened after having sworn the new Congress and these at the same time the new president and vice-president, as well as the rest of magistrates and officials that needed the new democratic institutionalism of the State of Guatemala.

Those who had gotten more impulse as first magistrate candidates were the candidate for DCG, Marco Vinicio Cerezo Arévalo and the UCN candidate Jorge Carpio Nicolle, the first political scientist in Guatemala⁴⁰ and founder of the newspaper *El Gráfico*.

Behind them, appeared the former General Ríos Montt's Chief of State's Council, Jorge Serrano Elías –who would win the presidential election in 1991- for the coalition of the National Cooperation Party (PDCN) and the Revolutionary Party of Guatemala (PRG) that had taken advantage of the new institutionalism and to change the name of the former PR.

A series of right-wing parties completed the partisan scenario, like the coalition MLN-PID, supporting the already well known Mario Sandoval Alarcón; CAN supporting Mario David García⁴¹, Alejandro Maldonado Aguirre supported by the National Renewing Party (PNR); Lionel Sisniega Otero from the Authentic Unification Party (PUA), the Emergent Concorde Movement (MEC) and FUN. Ideologically distant from all the previously mentioned candidates, was the social-democrat candidate Mario Solórzano Martínez from PSD.

According to the christian-democrats' words who were candidates to government during that election, there was a strong fear, just as there was at a moment for the Constituent, on behalf of the military and the traditional business sector of thinking that the ideas of DCG could have a left-wing tendency.

As an anecdote, Alfonso Cabrera, who was back then a constituent and a candidate to deputy for DCG, tells how they were notified about their campaign command one Sunday prior to the election about the attempts to discredit them “we were informed that there were people wearing green caps with the DCG's logo were measuring the houses at *La Reformita* neighborhood, zone 12 (southern side of Guatemala city), when we got to the place, it turned out to be a groups of *patojos* (boys) who had been paid by UCN” (interview, February 13, 2014; self-emphasis). The idea was to make middle to low class people think that their homes would be destroyed under expropriation if the christian-democrat candidate was elected.

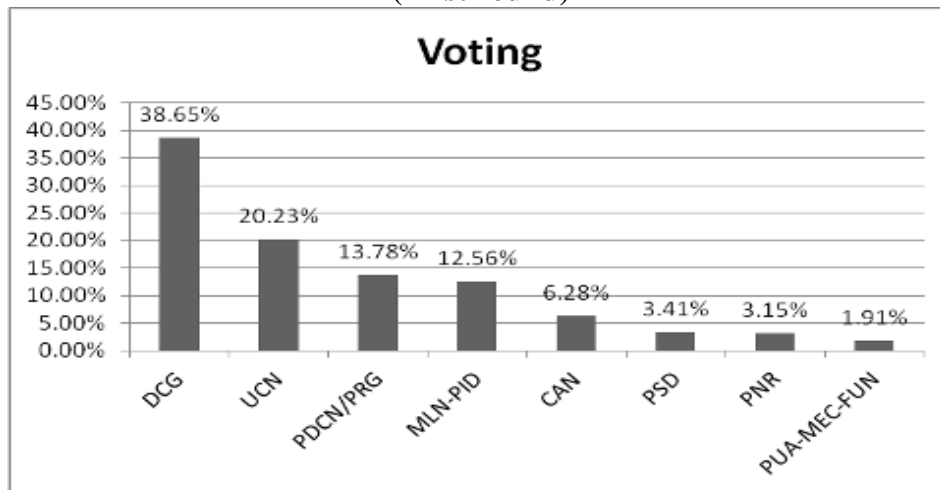
On his behalf, Jorge Carpio Nicolle used his means of communication the newspaper *El Gráfico*, to politically place himself as the electorate, overall the literate reader in urban areas, since it seems obvious that in a country with a high degree of poverty and illiteracy, the success in rural areas with this type of strategy was destined to fail.

The results were:

⁴⁰ Graduated from the School of Political Sciences, San Carlos University of Guatemala (Usac).

⁴¹ The only candidate that did not comply with the 40 years old requirement that the Constitution demanded, which came into force until January 14, 1986. Mario David was born on June 13, 1946.

Graphic #3
Electoral results for president 1985
(First round)



Source: made by the author using the “Supreme Electoral Tribunal Memory 1985”⁴².

The people were sending a clear message through the result of this election; the vote was decanted towards a moderated progressive tendency and not to extremely conservative political parties. The options for electoral ballot for not obtaining an absolute majority on the first round were torn between DCG for Vinicio Cerezo and UCN for Jorge Carpio.

On December 8, 1985 both candidates went to runoff having as a result the election of the christian-democrat candidate with a 68.37 % of the votes, against a 31.63 % of the votes for the UCN candidate. With this, Marco Vinicio Cerezo Arévalo would become the first civilian president in 16 years and the one who would then assume the political transition within the frame of the new Constitution that re-founded the State of Guatemala.

⁴² The percentages summation adds up to 100 %; however, when revising the electoral memory, the correct data should be 99.97 %.

Photograph #5
Results for the presidential runoff in 1985



Source: Prensa Libre, Guatemala, December 9, 1985.

In spite of the fact that after the first round, the coalition MLN-PID impugned the election, the system developed by Amílcar Burgos and put into practice by TSE under the guidelines of Arturo Méndez Herburger, were back in the day efficient and precise, that's why Carpio Nicolle had nothing else to do, but to accept his defeat.

The first democratic government of the new State of right was installed before the people's joy and enthusiasm on January 14, 1986. The transition was done, now would remain generate institutionalism and to search for a consolidation of democracy in the country.

Why was the transition victorious?

It is understood that the democratic transition is a social and political process during which a transformation happened within the system that passes from authoritarian practices to democratic ones and has its maximum expression in the defense of a constitutional order and free election, Guatemala had its most immediate transition in 1985 with the legitimate call for election, the creation of a new Constitution and the trespass through genuine election to a person who would be flaunting the political power for a definite time.

But, what made this process be a success? Even the president Cerezo Arévalo himself manifested his fear that the government trespass would not take place in an appropriate manner (interview, February 25, 2014).

For Fernando Villamizar Lama several theories exist to explain the transition in Guatemala “those focuses could be classified into three big groups: (i) Project directed mainly by the private sector elites and/or a foreigner power, (ii) Project directed by military heads of power (iii) Project obtained in different but progressive stages” (Villamizar, s.a.:9).

I consider it’s important to highlight the fact that none of these three theses presented by Villamizar in an isolated way to synthesize the transition process onto democracy get the absolute terms to explain its complexity and dynamic. They acquire more logic if they are overlapped and mixed to try to look for a new explanation.

First, the political-economic system directed by the military in consonance with the national oligarchical class was already drained. The country’s economy was still isolated from the international context due to the lack of guarantees offered for international capital investment capital investment, while during the internal armed conflict it was impossible to mobilize the national economy. This took place under the Cold War context, where the USA was the jealous witnesses in this attrition process in an area of tension to which El Salvador and Nicaragua were added.

Second, while it is true that the project of transition was decided in a big dimension because of a strategic decision of the Army to try to politically disgrace the Popular Revolutionary War directed by URNG and to be directly disengaged from any responsibility related to the acts of war that brought to the State’s handling; the transition would not have been possible without a high-level national political class, that regardless of the ideological discrepancies tried, at an appropriate moment to generate a political pact in 1982 that drew the path onto the return to the country’s constitutionality.

Third, there is a specific moment that evidences that re-foundation of the State of Guatemala through a National Constituent Assembly and the coming into force of the new Constitution in 1985, and a new government in 1986. For some people it is important to highlight that within this re-foundational process, the year 1978, because during this year was conducted not only the election, under fraudulent rumors of the General Fernando Romeo Lucas García, but also what was called the *Panzós massacre*⁴³, in the department of Alta Verapaz (northern

⁴³ On May 29, 1978, the Army of Guatemala massacred 53 indigenous people from the kekchí ethnicity (men, women and children), and got 47 people hurt when they were manifesting against the dispossession of land they had suffered years before. The peasants were not carrying guns, other than their working instruments, which of course, included machetes. The Army of Guatemala linked them with guerrilla organizations to justify their murder. It is estimated that there were pressures on behalf of the landowners against castrense instructions so

side of the country) which led to an international discredit due to the already recurrent evidences of violent methods used by the Army as a part of their fight against insurgent organizations.

Unlike other authors previously mentioned, this investigation determines that the most immediate history to understand how the political transition in Guatemala was managed, must make memory of at least the year 1973, during which the Army started perceiving an attrition in the system and it generates the necessary conditions for the General Kjell Laugerud García to assume power, in a legitimate way or not.

What is obvious is that the democratic opening happened due to a relation among elites: the military elites, the economic elites, the political elites and the approval of the USA were conjugated to search for a *new institutionalism*, that would be the return to a Constitutional order and the construction of political institutions that would allow them to re-mobilize the economy, this phenomenon can later be compared with the need manifested in 1996 of different sectors to sign for peace in the country.

Edelberto Torres-Rivas on this matter, revising the transition process, assures that

“the construction of political democracy involves two moments within the transition. One, that occurs when there are war and election at the same time and that in other research works has been classified as a *pre or proto-democratic* moment because there is not anymore a military dictatorship, but a civil government the one that organized society, but still restrained by the Army’s power. There is deregulation and practice of political rights, but violation of human rights and an unstoppable repressive inertia. Some would call it *liberal democracy*. The ‘second’ transition comes later on, which starts when peace arrives and institutional stability is searched for. The times and nature of this momentum change a lot in matters of two antecedents: why and how was the conflict raised? And how was peace achieved?” (Torres-Rivas, 2006:141; author’s emphasis).

In Giovanni Sartori’s words, it seems that the elites understood that “the election decide who will have to decide and the elected, when being face to face, debate and negotiate and they often come to solutions (decisions) of compromise, which will mean a positive addition: no one loses it all, and all, even in a very different amount, obtain something” (Sartori, 2002a.:59).

Trying to take Jonathan Hartlyn’s ideas (in Batista, 2012), the democratic transition in Guatemala was a transition named *from top to bottom*, similar to the one he studies in the Dominican Republic. Just like in that country, there were negotiations and pacts between the outgoing regime and the democratic opposition that included agreements about the social-

that they would suppress any movement to fight for the land, taking the Decree 900 as an antecedent, which dates back from the time of the Col. Jacobo Árbenz Guzmán, who tried to thrust a capitalist agricultural reform that was not successful due to pressures on behalf of the USA, when idle lands were involved (that would be paid at the price they were registered) as well as the *United Fruit Company*. The cost that Árbenz paid for this was a coup directed by the CIA, according to unclassified documents.

economy policy. This is pointed out by Ricardo Sáenz de Tejada by assuring that “there was certain continuity provided for the status quo, where private property was the most important locket” (interview, February 20, 2014).

Hartlyn also mentioned that the popular sectors strongly support the democratic refill, which allows the positioning of moderated leaders “the process of transition from the top has a main role for popular sectors, through a potential independent mobilization and through massive, strong and visible support for the opposition moderated leaders, which increases the cost of political pressure for authoritarian leaders (in Barista, 2012:13).

This explains in a good proportion why the election for the National Constituent Assembly was the highest in history with 78.1 % of voters and the election of transition registered the highest participation in the country’s history (1985-2011) with 75.6 % of voters. Furthermore, it explains why they decanted for a moderated progressive leader and a center-discourse leader instead of right-wing candidates and even the social-democrat candidate.

Whether it is considered a process of counterinsurgent strategy or a pact amongst military, economic and political elites to better the country’s conditions for these sectors, or the influence of foreign winds that demanded the establishment of liberal-democracies, what is certainly obvious is that Guatemalan people manifested their interest in the project of a re-institutionalization of democracy in the country, after 40 years of absence.

What was the institutional model created?

Authors like Johan P. Olsen and James G. March, minted the term *new institutionalism* in 1984 in an article published by the *American Political Science Review*, in order to domain the emphasis given to the organizational factors in political life and the importance that norms and values have in the definition or how organizations can function. In their words, an organization –in the case of this research proposal, the *State* as a summit of the maximum form of human being’s organization-, responds to *logics of appropriacy* that work as orienting frames of action for those who develop within it (March & Olsen, 1984; self-emphasis).

For the transition towards democracy in Guatemalan, there are two important aspects that are talked about. On one side reference should be made to a normative institutionalism of sustenance to democracy, and on the other side, a praxis institutionalism that includes the new common values for decision making and the actors’ behavior within the model. It is valid to highlight that the new model is not completely original, but has an increasing logic and so are the political actors, at least most of them.

March and Olsen mention that the institutions can be aggregative or integrative. *Aggregative* are those characterized by internal negotiation and exchange, from which, as a consequence a political process emerges and are extremely linked with rational analysis. On the other hand, *integrative* institutions imply an order based on history, obligation and the reason (March & Olsen, 1997; self-emphasis).

Guatemala seems to have generated its new democratic institutionalism after an aggregative process, because of the negotiation dynamics and the interests conflict, where it seems that the political class played a fundamental role by generating certain ease for the free exchange of ideas. However, none of the processes is pure, that is why it also had integrative nuances by implicitly generating new values and common aspirations (overall prior and during the National Constituent Assembly), that generated, at a certain level, along with the frame of the internal armed conflict, in a sparse but still existent level of social cohesion and this is demonstrated by the high expectations towards a democratic system.

There is a logic that seems to explain that institutions shape the individuals and not that individuals shape the institutions. It is important to highlight that people, understood as individuals, are not aseptic agents, because they come from a *big institutional frame* actually given by the State within which they were born, that is why they are not strictly *pure individual positions*, and that these individuals are indeed capable of obtaining a high level of incidence on institutions. As an example of this, we can point at the fact that the Political Constitution of the Republic of Guatemala has a strong incidence of individual actors, that even being separated from the institutional and conservative right-wing party logics decide from 1984 through 1985, after a process of interaction with christian-democrat individuals, in favor of the proposal presented by these last ones, which implies that interpersonal relations can be highly subjective and favor institutional designs that are different from the originally expected product⁴⁴.

With this theoretical-conceptual scaffolding, we can move on to revise the institutionalism created within the transition process to democracy that would give sustenance to the system. The importance of their revision lies within the fact that institutions

“Constitute the organizational structure of political power that selects the directing class assigns different individuals committed to the political fight. On the other hand, institutions are norms and procedures that guarantee the constant repetition of specific behaviors and like this make a regular and organized search for power and exercise of power and social activities linked to this last one possible” (Levi, 1998:1,363).

The kind of State in consonance with its historical evolution

In Guatemala, the state that was a product of the Constituent adopted some new characteristics and continued other historical that had been being put into practice. In words

⁴⁴On this matter, it is important to highlight how the daily interpersonal dynamic within the Parliamentary Hemicycle generated social interaction links that softened political positions that seemed definite, which made political negotiations easier.

of Gustavo Palma, for example: “It is not the political fact what explains it all” (interview, February 21, 2014). Palma thinks it is important to understand that the political phenomenon is the result of interactions that have historical roots in the process of the State’s construction.

For this connoted academic, the model of state that was managed as a product of the Constituent is a result of what happened even at the beginning of the 19th Century. Here, these primitive roots, detected with the independence attempts that emerged in the region of Latin America and that, even somehow, diluted, had some echo within the Central American economic sectors, emerges the State of Guatemala.

In this State, the economic Central American elites (let’s remember that Guatemala covered the territories of Guatemala, El Soconusco –Mexico-, Belice, Honduras, El Salvador, Nicaragua and Costa Rica-), constituted by creoles and mestizos, started to emerge as a product of the agricultural plantations linked to cochineal, the production of bluing and the beginnings of coffee and cotton plantations. The state for them was only an instrument of guarantees to private property which keeps them from a nationalism feeling and that will even have strong drawbacks for the construction and sustenance in time of two concrete facts: a) the Annexation to the First Mexican Empire (1821-1823) and b) the Federal Republic of the United Provinces of Central America (1823-1839)⁴⁵.

These two processes make it easier for each province’s interests to prevail, since they lacked common interests and a cohesive sense of belonging or nationalist feeling, managing *five new fake nation States*. I understand that they are fake nation States, because they are not a product of cultural cohesions that try to manage their own vital space, but are marked by a classes logic, not only belated in an economic sense, but also in social, political and ideological matters, even in regards to other emancipation processes in Latin America. This is what allowed Guatemala to be built within a weak state, being just an appendix of this economic elite with a very narrow view, which gave the country the model of a farmer-like production.

This carried as a consequence the fact that during more than a century, the State has been conceived ever since the Constitution of 1839, as a group of individual agents with very specific interests in regards to classes, this is how groups such as the economic elite of the country emerged, obtaining political power and designing the institutions in a way that only the classes’ interests would prevail. In words of Demetrio Cojtí, in spite of the fact that the country’s at least 40 % population is indigenous, the construction of a *mono-ethnic State* was intended” (Cojtí, 2005; self-emphasis).

⁴⁵ Starting in 1824, it was called Federal Republic of Central America.

That is why what happened to Guatemala, according to Palma, and in words of Alain Touraine (2006), was a *supervised transit* towards democracy. If it is true that there have been important moments in the history of the country that allow us to better understand the ideas about democracy that the political class has been interpreting and do not necessarily match the ideas of the economic elite. One of those important moments was the Revolution in October, 1944 that allowed through a Nation Constituent Assembly, the creation of a new Constitution.

This new Constitution establishes the capitalist construction of a well-being State, which looked after the country's modernization on its three fundamental aspects: the economic aspect, the political aspect and the social aspect. This allowed substantive progresses in regards to the people's life quality, overall the urban and mestizo areas. However, when it was decided to enforce Decree 900, *United Fruit Company* that is identified with the most powerful landowners in the country, classify this action as communist and support the Counterrevolution process in 1945, previously described.

The counterrevolution provided its major sustenance to the definition of the State of Guatemala with the establishment of the Constitution of 1956, characterized by being conservative, reactionary and anti-communist; but would have major logic as a long-term project with the Constitution of 1965, where it allows the establishment of an openly counterinsurgent State that permitted the emergence of State Terrorism, this was because of the emergence of guerrilla fronts that violently tried to take control of the country since the first uprising on November 13, 1960.

That is why the new State, product of the transition in 1985 deserves several revisions, because even if the country's status quo is maintained, there is an opening for foundational changes in institutionalism and political praxis.

One of these transforming characteristics that can be revised between the Constitutions of 1965 and 1985 in their first article:

Frame #5
First constitutional article
(comparison between 1965 and 1985)

"Guatemala is a free Nation (sic), sovereign and independent, organized to guarantee is population the enjoyment of freedom, safety and justice. Its government system is republican and democratic representative. It delegates the exercise of its sovereignty on the Executive, Legislative and Judicial Organisms, among which there is no subordination. No person, group or entity can arrogate the Nation's sovereignty" (National Constituent Assembly, 1965).

"Protection for the persona. The State of Guatemala is organized to protect the persona and their family; its supreme aim is the realization of common good" (National Constituent Assembly, 1985)

Source: made by the author

The first change that stands out is that the State is seen exclusively as a protector from all the threats against it institutionalism and is centered in the protection for the persona and family as human-social figures. As a matter of fact, the first paragraph on the Constitution of 1965 is named *From the Nation, the State and its Government*, while the Constitution of 1985 has a first title *the human persona, aims and duties of the State*, which reflects this idea.

The new State, at least in documents, would be then much more attentive to guarantee the life of their people, freedom, justice, safety, peace and the persona's integral development; in order to achieve this every paragraph related to human rights is fundamental and the creation of a figure of *ombudsman* through the Human Rights Procurator, as well as social rights implicitly sustained within the family's catholic values.

In spite of having a strong mono-ethnic tendency, the State generated five constitutional articles for what are known as *indigenous communities*, where there is emphasis on the protection to the different ethnic groups, the protection of the lands and the indigenous agricultural cooperatives, the translation of workers and their protection (consequence of a serious limitation in labor protection, especially towards indigenous people who have constantly been seen as people of *second category*) and the creation of a specific law, which in 2014 is still ending, this also evidences the lack of interest on behalf of the new state model to achieve plural-national logics, even after the Peace Accords were signed in December 29, 1996 between URNG and the Government.

Furthermore, the new institutional design in the country allowed, through the Constitution, to establish a political electoral regime that provided political organizations with freedom of formation and functioning, for which its dispositions were completed in the Constitution with the Electoral and *Political Parties Law* with a constitutional rank. This way, the already existing multi-parties by abolishing from the Constitution the clause established in 1965 that limited the participation of political parties with a *communist* tendency, searching only for the respect towards the constitutional order.

Multiparty was not an innovative characteristic, it had been within the system for decades. Though in Sartori's words (2002b.) with tendencies of *predominant parties* such as the coalitions observed between MLN and PID, according to the country's most recent history, because according to Palma "from 1871 through 1944, there was no functioning of political parties" (interview, February 21, 2014). This has guided us into building a political parties system that can be named *moderated pluralism*, because, due to a particular interest's conflict, political parties in Guatemala have been more fragmented than polarized; this is a consequence of establishment of the political dynamic that succeeded the democratic transition. It must be added that the left-wing did not want to be involved in political participation during the moment of transition, which could have accentuated the political and ideological positioning even more.

An important detail that embraces the political parties system and the electoral system is that deputies for national list used to be chosen as 25 % in regards to the total amount of parliamentary seats but they were related to the number of votes per presidential candidate ballot. This was modified with the reforms to the Constitution in 1993 after the self-coup of the engineer Jorge Antonio Serrano Elías⁴⁶.

The cherry on top of the current Political Constitution, The Serranazo

Serrano Elías received the political power from the hands of Vinicio Cerezo Arévalo on January 14, 1991. Jorge Serrano had obtained the Presidency of the Republic as a product of the political conjuncture that had determined that the Court of Constitutionality denied the participation of the General José Efraín Ríos Montt, for his new party, the Guatemalan Republican Front (FRG), as a presidential candidate, and also desire on behalf of the DCG to keep Jorge Carpio Nicolle from UCN from obtaining the political power.

This even carried to the existence of tactics like a *famous televised debate* where Vinicio Cerezo supposedly agreed with Jorge Serrano Elías to make him look bad, so that he could have the option of passing to a runoff after the ruling party candidate, Alfonso Cabrera, seemed to not have the necessary success, mainly due to the party's internal problems and a pancreatitis that even kept him from being present at the most decisive electoral moment (the interviews verified these versions).

This way, Jorge Serrano Elías form the Solidary Action Movement (MAS), was about to mark the pattern of the *carton made* political parties, because it worked only to take him to the presidency. The party that emerged to success from nothing, without a well-elaborated discourse, without formation of cadres and with a limited national organization, obtained the presidency and after Serrano's figure would be condemned to die.

The weakness of MAS meant sparse institutional support on the political field and even less within the Congress of the Republic, building what Serrano himself manifested as the famous *infernal lashing*: DCG-UCN-MAS, that started asking him for privileges and money, trying to trade those for switching amenities within the Parliamentary Hemicycle.

Adding this to Jorge Serrano's volatile personality (interview, Ricardo Gómez Gálvez, February 18, 2014) and the authoritarian strains on behalf of the Army and the traditional economic sectors⁴⁷, on May 25, 1993 he declared to have done a *technical coup* following

⁴⁶ Previously, it also existed the figure of substitute deputy derogated by the Constitutional Reform of 1993.

⁴⁷ Vinicio Cerezo had had at least two attempts of coup, one on May 11, 1988 and other one on May 9, 1989. The first one, according to the interviews, where the affirmation of the Col. Jorge Ortega and Vinicio Cerezo himself are highlighted, was a product of the discontent of the Col. Francisco Gordillo, *godfather* of the back then minister of Defense, the General Alejandro Gramajo's son, because this last one had not given him a nomination of command. The second one, more imprecise because of what the hemerographic investigation reflects, points at the discontent of the group called the *blue handkerchiefs* (name that they used to be differentiated from the national Army), for the ministers of Defense and Governorate ("Rumored demands", Prensa Libre:6). Both coup attempts were controlled within hours.

Alberto Fujimori's style in Peru, to generate rearrangements for himself within the State's powers and to be able to govern like he wanted to, known as *The Serranazo*.

Photograph #6
Self-coup headline



Source: Crónica Magazine, 1993.

Pro-democracy groups organized in two bodies that contradicted Jorge Serrano's decision were articulated in the following way, playing an important role:

- a) The *Consensus National Instance* that was integrated by Social Democrat Party (PSD), National Advanced Party (PAN), Guatemalan Christian Democracy (DCG), National Center Unity (UCN), Guatemalan Republican Front (FRG), Agricultural,

Commercial, Industrial and Financial Associations Coordinator Committee (Cacif), Business Chamber, a part of syndicates organized in the National Central of Unified Workers (CNTU); and

- b) The *Multisectoral of the Social Sector*: Unity of Popular and Syndical Action (UASP), San Carlos University of Guatemala (Usac), the Civilian Sectors Coordinator, that had the leadership of Rigoberta Menchú Tum, Nobel Peace Prize 1992; played an important role.

At a side of these, institutions like the Army of Guatemala, the Supreme Justice Court, the Constitutionality Court, the Supreme Electoral Tribunal, the Human Rights Procurator, the Professional Association of Lawyers and Notaries of Guatemala, amongst others, joined to not recognize Serrano's coup and avoid Serrano⁴⁸, or his Vice-president Gustavo Espina Salguero to obtain the power.

On June 6, 1993, in order of the Constitutionality Court, the Congress named the Bachelor Ramiro de León Carpio, who was, until then the Human Rights Procurator, as the new President of the Republic, and Arturo Méndez Herbruger, until then the president of the Supreme Electoral Tribunal as his vice-president for a government of transition until the period for which Jorge Serrano had been elected was due.

Along with this election a new constitutional reform was developed, which amongst several things generated a depurative mechanism from the Congress of the Republic of deputies considered *corrupt* –the debuggable⁴⁹–, as well as a big preponderance on behalf of other sectors for politics not to relapse in the hands of politicians, but also in civilian society organized through changes in the postulation commissions.

Here, there is a re-taking of the importance of the National Instance of Consensus and the Social Multi-sectorial, because the first one argued that 16 deputies that were classified as debuggable had to quit in order to overcome the crisis; on the other hand, the second one argued that it was necessary for 116 deputies that integrated the Congress to quit in order to allow another National Constituent Assembly.

After a series of tense and rough negotiations, it was decided to convoke the process of depuration through a popular consultation and new deputies' election that carried a new Supreme Justice Court. Amongst the new deputies, the figure of Alfonso Portillo appeared, who would later become the President of the Republic by FRG and nowadays judged by the USA and self-declared guilty of the crime of money laundering⁵⁰.

Two popular consultations have taken place in the recent political history in the country. The one in 1993 had an abstentionism of 85 % but still approved the reforms to the Constitution;

⁴⁸ Since June, 1993 Serrano Elías is an asylee in Panama.

⁴⁹ Passing through the modifications from 116 to 70 deputies.

⁵⁰ Alfonso Portillo Cabrera assumed the presidential candidacy after the Court of Constitutionality impeded the General Ríos Montt to be a presidential candidate in 1995 for being linked to constitutional prohibition by leading a coup in 1982. Efraín Ríos Montt would be a deputy from 1995 to 2012, even being the president of the Legislative Organism for four consecutive periods. Nowadays (2014) he is on trial for the crimes of genocide during his facto government.

another one in 1999 with 81.5 % of abstentionism in which there was an inclination for the no. the reforms in 1999 intended to include the agenda that was a product of the Peace Accords as a State Policy, to which the most conservative sectors roundly opposed and let the political parties themselves *annihilate* the legitimacy of the reform by including a series of points that did not generate more than the reflection of particular interests and ended up confusing people⁵¹.

Some of the most important reforms for the system

In that marasmus it was decided the presidential period had to be limited, as well as deputies and municipal corporations⁵² from five to four years. The argument was, according to Alfonso Cabrera (interview, February 13, 2014), that “we are not prepared for someone to be in the power for such long periods of time in democracy”.

The Judicial Organism was going to be a subject of reforms through changes in its form of election. In the original Constitution of 1985 in order to elect magistrates for the Supreme Court of Justice, four magistrates (out of the nine magistrates who integrated it) were elected in a direct way by the Legislative Organism and five remaining magistrates were elected by this same entity, but out of a list of 30 nominees proposed by a Postulation Committee.

The constitutional reforms of 1993 also tried to modify this, when being 13 out of the 26 magistrates that would constitute that Court those established on a postulating list. The policy in these cases, is not done in the Congress of the Republic anymore, thus it has been moved out of the political parties system, under the argument that it generates ease for *corruption* and the absence of citizen *auditing*. The phenomenon seems to repeat itself within the committees and it makes it demonstrates to be a bad habit in the system more than the actor and it has subtracted direct preponderance to political parties as actors that mobilize the representation of interests within any political system.

In regards to aspects of control and auditing the Congress of the Republic chose at its own criterion who would be the General Accounts Comptroller of the Nation, according to the original text of 1985, on the other hand in 1993, the role of the Congress in this was also substituted so that it would be a Postulation Committee the one in charge of presenting six candidates for this position.

⁵¹ On this matter, see: Hernández, Pico 1999 “Guatemala” on en <<http://www.envio.org.ni/articulo/950>> Access on April 13, 2014.

⁵² Back in the day, there were categories of municipalities according to the number of people and along with this, the local government period.

In the figure of 1985 it had been established a General Procurator of the Nation, and Chief of the Public Ministry, who was previously chosen by the President of the Republic and who exercised the penalty function in favor of the State's interests. The reforms decided that it was necessary to cleave two figures and that they would both be elected, but through six proposals on behalf of the corresponding postulation committees.

In regards to the figure of municipalities of the country as the smallest political-administrative entities with their own local government legitimately elected, the Constitution of 1985 had titled in its article 257 all the municipalities counted on a *budget for works of municipal infrastructure*, that originally it was an 8 % changing from this with the reforms of 1993 to be named *assignment for municipalities*, to being increased to a 10 %⁵³; however, any type of additional transfer is limited, which can avoid corruption, but at the same time weakens specific situation for the municipalities to be injected with financial resources.

It must be highlighted that not all modifications revolved around this preponderant role of mayor liberation on behalf of civilian society in the decisions of naming public functionaries. Moreover, according to several political parties interviewed, they see how the result has been undermining the political parties, mainly historical parties that were affected through the depuration process.

There were also people who were benefitted by changing what refers to the Monetary Board by limiting the authorization that it gave to the Bank of Guatemala to give direct or indirect founding, guarantee or endorsement to the State, its decentralized or autonomous entities and the nonbank entities. Also, the Bank of Guatemala will not be able to acquire the values that these entities issue or trade within the primary market. Obviously, with the argument that the State shouldn't generate inflation through the emission of paper money through founding from the central bank; it must turn to the Private Bank, so that with much higher interests, the State can inject the economic flow.

In synthesis, every political system, as democratic as it can be, can be perfectible or suffer regressions, even justified in the constitutional order and the State of right. The dynamics raised with the reforms of 1993, that are not a priority in this research work, but that molded the original design of 1985, subtracting leadership from the political class for considering that it was necessary a much more deliberative democracy has reflected rights and wrongs that deserve the continuity of this kind of research work, Especially to understand the reasons why there is currently a political class and the parties system within which it is executed, and is not a product of a spontaneous generation.

Conclusions

As it was mentioned at the beginning, Latin America has lived through different processes to achieve its transition towards democracy, some more tortuous than others. Political democratic life in Guatemala is convulsive and full of several stumbling, consequence of the logic of particular

⁵³ An achievement that DCG presumes as its own, both Alfonso Cabrera and Vinicio Cerezo mentioned that it was important for them to obtain a strengthening of municipal finances.

interests that consider wise to keep the status quo in exchange for strong amounts of authoritarianism. This carried in its moment to a communist condemn against the governments of what was named the *Democratic Spring* in the country from 1944 through 1954 and was the conditioning factor to impulse a political project of national oligarchy along with military power, from which they were not necessarily outsiders because several of their members had participated or had a historical-relative link with castrense forces.

The project was imposed with the approval of the USA, who in the middle of the Cold War context had to guarantee their national security, and having Guatemala at less than 2 thousand km of distance from their closest border, the geo-political importance of the country's control was determinant. This was demonstrated by the support provided by the CIA to the Counterrevolution of 1954 and the ease provided by the Army of Guatemala to prepare the *Invasion of Bahia de Cochinos in Cuba* in 1960, that was a strong incentive for the emergence of the first insurgent uprising on November 13 of that same year by the members of the national Army.

The military-oligarchic political project, with the backup of the United States was efficient until 1973, when the people and overall the political Guatemalan class, see a streak in the system to impulse a refill that allow to give a space to the desired democracy through electoral ways. This project would need to redesign their electoral system to be able to continue in domain of the political power without the need of managing coups that at the end would only accelerate the political entropy, which takes them to electoral fraud.

It is a product of that political entropy the fact that the system got drained and needed to generate a new one, but needed a military that was more involved in the defense of the interests of their institution than in obtaining political power, like it happened in 1982 with the General Efraín Ríos Montt's coup. The institutionalism for the transition was conceived since 1983 with the Supreme Electoral Tribunal and the Law of Registration of Citizens as fundamental elements, but not enough. The point is that there was not an intention of behalf of the General Ríos Montt to confer the power, which implied the need to accelerate the processes.

This conducted to the General Mejía Víctores' coup that same year, to be able to, through an agreement at the recent *Spanish democratic transition* style, with a fundamental law, to grant the necessary conditions for the system to be functional again. The State generated opening, more political options participated, guarantees to a free expression of thought were granted, to the social organization, it was given a slight opening to the ethnic topic, but the status quo would not be drastically modified, the interests of classes prevailed.

In spite of this, it was possible to create a new Political Constitution, very advanced, that given the necessity of providing with guarantees to all the parts had to be amply developed,

as a matter of fact, this reveals in good proportions why it is composed by 280 articles. Adding to it that it has a strong christian-democrat tendency that is explained through the determinant role of the DCG at an internal level in the National Constituent Assembly; and also in the strong conservative roots of Guatemalans, where its judeo-crhistian formation has importance, whether being catholic, evangelical or with another different denomination.

A new institutional design tries to better its natural mechanism of weights and counterweights and is optimum during its first years, especially in the opening of the human rights topic. This allows the constitutional breakdown to seem *relatively* distant and that the government of transition, under the direction of Vinicio Cerezo had gotten to finish his period, and control, at least two coup attempts. Furthermore, how civilian society organized, the organized business sector and political parties were capable of keeping Jorge Serrano Elías' self-coup in 1993 from being consolidated.

However, the constitutional reforms in 1993 that also alter the Guatemalan State's institutional design, reflect how sectorial and/or guild organizations, of elite or popular, were imposed to the political class, affecting the political parties system. The discourse that *politicians* are corrupt and incapable of directing the country in the middle of the representative democratic system has gotten to the people and undermined the figure of political parties, that have passed to juggling more pragmatic interests and being mere *electoral vehicles* for obtaining public positions. In scenarios where the defined ideological positioning is strongly questioned by society, including especially the means of communication, brings as a result political parties that search to be the interlocutor of its particular interests, for which they don't need party bases nor perdurability in time. This also means the conformation of parties that represent legal and ilegal political interests.

In regards to the original democratic system, the State of Guatemala was not constituted under a democratic deliberative system; it is eminently representative, just as it is stipulated in the constitutional article 140. It must be remembered that the constituted model has an aggregative character, more than integrative and it was managed as the product of a transition from top to bottom by the economic, military and political elites.

An alteration to the original design of 1985, generated without the necessary care for the election of public functionaries with the systems of postulation committees, product of the reforms of 1994 can derive in sectorial and/or gremial strives, just as in an implicit conformation of a *cooperative* State, more that participative democratic. Citizens' participation should be much more active and open for the decision making of their interest, more at a model of a participative democracy. Same risk is taken by this type of election and political practices in regards to the Court of Constitutionality, because even if in their integration there were not any reforms, different sectors try to establish networks to have control of the maximum entity.

Democracy therefore must be newly questioned as a political perfectible model and not as a finished process, but for this there must be a search for the ideal mechanisms to transform the system, where politicians assume again the control of *politics*, while a well-organized civilian society and business sector get in charge of the auditing labor and do their part in

politics, oriented to generating a process of weights and counterweights of viability in the construction of governability in a first moment and governance as an intended horizon.

Guatemalans have demonstrated their interest in living in democracy and in the respect of a constitutional order. The election of a National Constituent Assembly with the support of 78.1 % of voters endorses the idea. Citizens demand moderated positions, but conservative, they are not likely to adopt left-wing positions that tend to be associated to the war and to the discourse that rewarded for decades the military-oligarchic system, the only exception to the rule was Álvaro Colom's government from 2008 through 2014 who set themselves ideologically as social-democrats.

The transition to democracy was already managed. We are nowadays in a search for its institutionalization, but with strong interests of groups that want to mold the system for their own benefit. The biggest business in the country is the State not only for what regards to corruption in a direct way, but for all its eyes can omit or permit to do when someone gets control of it. That is where the biggest risk of convoking to a National Constituent Assembly exists or constitutional reforms are proposed with the political parties system and with the kind of political interactions that have been being instituted in Guatemala.

Is constitutional order within the crisis? No, It can't hardly be seen like that. It is still very useful for those who make decision in this country and it is still very functional when needed.

Bibliography

Asamblea Nacional Constituyente 1965 *Constitución Política de la República de Guatemala* (Guatemala: Tipografía Nacional).

Asamblea Nacional Constituyente 1985 *Constitución Política de la República de Guatemala* (Guatemala: Tipografía Nacional).

Batista Gonzalvo, Jesús Salvador 2012 "Proceso de transición democrática en la República Dominicana (1966-1978). Factores políticos que incidieron en el proceso". Tesis de maestría en Ciencia Política para el Desarrollo Democrático. Instituto Global de Altos Estudios en Ciencias Sociales & Universidad de Salamanca.

Boneo, Horacio & Torres-Rivas, Edelberto 2001 *¿Por qué no votan los guatemaltecos?* (Guatemala: F&G Editores).

Colegio de Abogados y Notarios de Guatemala 2009 *La refundación del Estado*. (Guatemala: Magna Terra Editores) Tomo I.

Cojtí, Demetrio 2005 *La difícil transición al Estado multinacional* (Guatemala: Cholsamaj).

Comité Internacional de la Cruz Roja 2011 *Protocolo I adicional a los Convenios de Ginebra de 1949 relativo a la protección de las víctimas de los conflictos armados internacionales, 1977* (Suiza: Comité Internacional de la Cruz Roja; 08-06-1977 Tratado).

Comité Internacional de la Cruz Roja 2012 *Los convenios de Ginebra del 12 de agosto de 1949* (Suiza: Comité Internacional de la Cruz Roja).

Congreso de la República 1952 *Ley Agraria. Decreto 900* (Guatemala: Tipografía Nacional).

Corte de Constitucionalidad 2002 *Constitución Política de la República de Guatemala y su interpretación por la Corte de Constitucionalidad* (Guatemala: Corte de Constitucionalidad).

Dabroy, Jahir 2012 *Caracterización sistema político de Huehuetenango: análisis del proceso electoral 2011*. (Guatemala: Centro de Estudios y Documentación de la Frontera Occidental de Guatemala).

Duverger, Maurice 2000 *Los partidos políticos* (México DF: Fondo de Cultura Económica).

Ejército de Guatemala 1983 *Plan Campaña Firmeza 83* (Guatemala: Ejército de Guatemala).

Gobierno de Guatemala, 2010 *Plan Sofía* (Guatemala: Secretaría de la Paz).

Infuso, Joseph & Szczepanski, David 1984 *Siervo o dictador. La verdadera historia del controversial Presidente de Guatemala* (Guatemala: Gospel Outreach).

Instituto de Gerencia Política s.a. *Partidos políticos: origen, funciones y estructura* (Guatemala: Universidad Rafael Landívar y Organización de los Estados Americanos).

Jefatura de Estado 1983a. *Modificaciones al Estatuto Fundamental de Gobierno. Decreto-Ley 87-83*. (Guatemala: Diario de Centroamérica).

Jefatura de Estado 1983b. *Ley de Empadronamiento de Ciudadanos. Decreto-Ley 138-83*. (Guatemala: Diario de Centroamérica).

Kirchheimer, Otto 1980 (1965) “El camino hacia el partido de todo el mundo” en *Der Wandel des westeuropäischen Parteiensystems*, in: Politische Vierteljahrshefte, pp.24-41).

Levi, Lucio 1998 “Voz régimen político” en Bobbio, Norberto *Diccionario de la Política* (México DF: Siglo veintiuno editores, pp. 1,362-66).

March, James & Olsen, Johan 1984 *The New Institutionalism: Organizational Factors in Political Life* (Washington DC: American Political Science Review 78, September 734-49).

March, James & Olsen, Johan 1987 *El redescubrimiento de las instituciones: la base organizativa de la política*. (México DF: American Political Science Review 78, September, pp. 734-49).

Molina, Ignacio 1998 *Conceptos fundamentales de Ciencia Política* (Madrid: Alianza Editorial).

Papadópolo, Midori 1995 *Del 25 de mayo de 1993 hasta las reformas a la Constitución. Análisis jurídico-constitucional del golpe de Estado del 25 de mayo de 1993 hasta las reformas a la Constitución* (Guatemala: Instituto de Investigaciones Económicas y Sociales, Universidad Rafael Landívar, Serie Jurídica).

Pinto, Julio 1986 *Centroamérica, de la colonia al Estado nacional (1800-1840)* (Guatemala: Editorial Universitaria).

Presidente de la República 1982 *Ley de Tribunales de Fuero Especial. Decreto-Ley 46-82*. (Guatemala: Diario de Centroamérica).

Ramos, Belinda & Sosa, Mario 2011 *Un Estado otra nación* (Guatemala: Instituto de Investigaciones y Gerencia Política).

Sartori, Giovanni 2002a. *Elementos de teoría política* (Madrid: Alianza Editorial).

Sartori, Giovanni 2002b. *Partidos y sistemas de partidos* (Madrid: Alianza Editorial).

Serrano, Jorge 2012 *La guayaba tiene dueño* (Panamá: s.e.).

Thesing, Josef 1999 *La democracia en Guatemala* (Guatemala: Instituto Centroamericano de Estudios Políticos). Cuadernos de temas y documentos de debate No.2. Mayo.

Touraine, Alain 2006 *¿Qué es la democracia?* (México DF: Fondo de Cultura Económica).

Torres-Rivas, Edelberto 2006 *La piel de Centroamérica (una visión epidérmica de setenta y cinco años de su historia)* (Costa Rica: Facultad Latinoamericana de Ciencias Sociales).

Tribunal Supremo Electoral 1985 *Elecciones 1984 Memoria electoral* (Guatemala: Tribunal Supremo Electoral).

Tribunal Supremo Electoral 1986 *Elecciones 1985 Memoria electoral* (Guatemala: Tribunal Supremo Electoral).

Tribunal Supremo Electoral 1992 *Elecciones 1990-91 Memoria electoral* (Guatemala: Tribunal Supremo Electoral).

Tribunal Supremo Electoral 1995a. *Elecciones 1994 Memoria electoral* (Guatemala: Tribunal Supremo Electoral).

Tribunal Supremo Electoral 1995b. *Consulta popular 1993-94 Memoria electoral* (Guatemala: Tribunal Supremo Electoral).

US. State Departament 1980 *Documents demostrating comunist support of the salvadoran insurgency* (Washington DC: Report No.4, Lago 1, November).

Villagrán, Francisco 2004 *Biografía política de Guatemala* (Guatemala: Facultad Latinoamericana de Ciencias Sociales). Vol. II.

Villamizar, Fernando s.a. *La tercera ola democratizadora en Guatemala* (Guatemala: Universidad del Istmo).

Diaries⁵⁴

El Gráfico 1983 (Guatemala) August 9.

La Hora 1973 (Guatemala) July 20, 1973.

Prensa Libre 1980 (Guatemala) January 31.

Prensa Libre 1982 (Guatemala) March 24.

Siglo Veintiuno 1991 (Guatemala) February 3, 1991.

Siglo Veintiuno 1998 (Guatemala) March 23, de 1998.

Web resources

Asturias Montenegro, Gonzalo “Ríos Montt: historia o escarnio” *El Periódico*, 9 de febrero de 2012, en < <http://www.elperiodico.com.gt/es/20120209/opinion/207730>>, acceso del 2 de abril de 2014.

⁵⁴ With specific cites, however, the hemerographic work comprehended a detailed revision of the newspapers: *Diario de Centro América*, *El Gráfico*, *La Hora*, *Prensa Libre* and, *Siglo Veintiuno* during the days considered critical for the moments of electoral juncture and coups mainly.

Barcelona Center For International Affairs “Efraín Ríos Montt” en <http://www.cidob.org/es/documentacio/biografias_lideres_politicos/america_central_y_caribe/guatemala/efrain_rios_montt>, acceso 25 de marzo de 2014.

Garcia, Javier 2007 “Las transiciones a la democracia en América Latina: ejes fundamentales” en <http://iugm.es/uploads/tx_iugm/TransicionesAL.pdf>, acceso 24 de agosto de 2014.

Garrard-Burnett, Virginia (s.a.) “Los describía de domingo de Efraín Ríos Montt” Instituto de Estudios Latinoamericanos, Universidad de Texas, en <<http://www.hcentroamerica.fcs.ucr.ac.cr/Contenidos/hca/cong/mesas/cong5/docs/bCul2.pdf>>, acceso del 2 de abril de 2014.

Hernandez, Pico 1999 “Guatemala” en <<http://www.envio.org.ni/articulo/950>> acceso 13 de abril de 2014.

Ramos, Jerson, 28 de diciembre de 2011 “Ministerio Público desistirá de acusación contra Mejía Vítores”, en <<http://www.elperiodico.com.gt/es/20111228/pais/205684/>>, acceso 2 de abril de 2014. Se debe

Shetemul, Haroldo. “Victoria 82”. Prensa Libre, en <http://www.prensalibre.com/opinion/Victoria_0_503949785.html>, acceso el 2 de abril de 2014.

Wikipedia “Elecciones de la Asamblea Nacional Constituyente de 1984” en <http://es.wikipedia.org/wiki/Elecciones_de_la_Asamblea_Nacional_Constituyente_de_Guatemala_de_1984>, acceso el 4 de abril de 2014.

Anexes

Anex 1 Primary Interviews

No.	Name	Position	Date of the interview	Duration of the interview
1	Arnoldo Villagrán	Former Chief of Major State of Revolutionary Armed Forces in the department of de Petén.	February 12	1:13:38
2	Alfonso Cabrera	Former constituent for Guatemalan Christian Democracy, 1985, President of the Congress of the Republic during the first contemporary democratic stage 1986, Minister of Specific Issues 1987, Minister of International Relations 1988-1989, presidential candidate en 1990.	February 13	1:38:56*
3	Julio Balconi	Retired General, member of the Peace Committee, 1994-96, Minister of Defense 1996-2000, peace signatory 1996-1997.	February 17	42:22
4	Raquel Zelaya	Member of the State Council in 1982 as a women's representative, Minister of Public Finances in 1992, member of the Peace Committee for the Government of Guatemala in 1996 and Peace Secretary 1997-2000.	February 17	42:27
5	Ricardo Gómez Gálvez	Deputy in the Congress 1978-1982, 1985-1991. Former President of the Congress of the Republic. Minister of Education 1988-1989 and Embassador of Guatemala in Mexico 1990-91.	February 18	1:04:06*
6	Ricardo Saénz de Tejada	Anthropologist and Doctorate in Social Sciences with mention in Political Science. National Political Life Historian.	February 20	49:45*
7	Jorge Ortega	Retired Colonel, former spokesman for the Army of Guatemala, 2004-2009.	February 21	2:35:17*
8	Gustavo Palma	Historian e investigator for the Association for the Advance of Social Sciences in Guatemala	February 21	1:36:32
9	Vinicio Cerezo Arévalo	Former President of the Republic during the transition period towards democracy in the country. Period 1986-1991.	February 25	1:23:57

Source: made by the author.

*At some points, they asked for the tape-recorder to be stopped to tell details which they did not want to leave evidence of.

Anex No.2
Secondary Interviews⁵⁵

No.	Name	Position
1	Catalina Soberanis	Member of the National Constituent Assembly. First Female President of the Congress of the Republic, 1991. Former Minister of Work and presidential candidate in 1999.
2	Edelberto Torres-Rivas	Former Director of Flacso, Guatemala, consultant for PNUD, coordinator of the six volumes of “Historia General de Centroamérica.” (General Central American History).
3	Héctor Nuila.	Leader of the National Guatemalan Revolutionary Unit, former Guatemala City Mayor candidate for that same party, Deputy for URNG.
4	Juan Francisco Pinto Casasola	Vice-minister of Public Finances in 1986, first democratic government.
5	Manuel Ayau	Former Vice-president candidate for the main opposition party during the transition towards democracy, 1985. Leader of the liberal current in the country. Deceased.
6	María Luisa Beltranena	Liberal Academic.
7	Rodolfo Quezada Toruño	Cardenal and Metropolitan Archbishop of Guatemala 2001-2010. Deceased.
8	Rosalina Tuyuc	Social activist. General Secretary of the National Coordinator of Widows in Guatemala.
9	Sergio Flores	International Relations Professional, expert on the topic of Human Rights.
10	Rockael Cardona	Former functionary of the government. Attendant of the State Reform Committee 2000-2004.
11	Hugo Maúl Figueroa	First and substitute magistrate for the Supreme Electoral Tribunal 1989-1996. President of the Supreme Court of Justice y of the Council of Judicial Career 2000-2001. Presidential Commissioned for Transparency and Against Corruption 2004-2008. President of the Center for the Defense of the Constitution 1999.
12	Mario Fuentes Destarac	General secretary of the Supreme Court of Justice 1983-1984, amongst other public positions.

⁵⁵ Transcripts of interviews recovered were done for the National Institute of Public Administration in 1998.

13	Víctor Hugo Godoy	Former constituent.
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Source: made by the author.